

1985 BILL 35

Third Session, 20th Legislature, 34 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 35

APPRENTICESHIP, TRAINING AND CERTIFICATION ACT

THE MINISTER OF MANPOWER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 35

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1985

APPRENTICESHIP, TRAINING AND CERTIFICATION ACT

(Assented to _____, 1985)

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

Definitions

1 In this Act,

- (a) "apprentice" means a person who enters into a written contract of apprenticeship;
- (b) "Board" means the Alberta Apprenticeship, Training and Certification Board;
- (c) "Department" means the Department of Manpower;
- (d) "designated trade" means a trade designated under section 14;

(e) “employer” for the purposes of sections 10(2)(b), 17(1) and 23(1)(c) and (d) means a person or group of persons to whom a person is or is proposed to be bound under a contract of apprenticeship in a designated trade and who is responsible for the remuneration and training of the apprentice;

(f) “Executive Director” means the Executive Director of Apprenticeship, Training and Certification;

(g) “Minister” means the Minister of Manpower.

Executive
Director and staff

2(1) In accordance with the *Public Service Act* there shall be appointed an Executive Director of Apprenticeship, Training and Certification and any other staff that is necessary to carry out this Act.

(2) The Executive Director may in writing delegate any power or duty given to or imposed on him by this Act or the regulations to an employee in the Department.

Board established

3(1) There is hereby established the Alberta Apprenticeship, Training and Certification Board.

(2) In addition to the powers and duties given to or imposed on it under this Act and the regulations, the Board shall advise the Minister on all matters affecting apprenticeship, training and certification in trades.

Composition
of Board

4(1) The Board shall consist of the following persons:

(a) the Executive Director;

(b) the following members appointed by the Lieutenant Governor in Council:

(i) a chairman;

(ii) not fewer than 3 members representing employers in designated trades and an equal number of members who are employees in designated trades;

(iii) 1 alternate member representing employers in designated trades and 1 alternate member who is an employee in a designated trade;

(iv) not more than 2 additional members who represent the general public;

(v) 1 alternate member who represents the general public.

(2) The Executive Director is a non-voting member.

(3) The Lieutenant Governor in Council may designate a member of the Board as vice-chairman.

(4) A member of the Board other than the Executive Director shall be appointed for a term not exceeding 3 years.

(5) A member of the Board appointed under subsection (1)(b)(i), (ii) or (iv) is eligible for reappointment for a 2nd term of office, but not for a further term of office until the expiration of a period of 3 years after the end of his 2nd term.

	<p>(6) An alternate member of the Board shall act during the temporary absence or inability to act of a member from the class the alternate member represents, and is eligible</p> <p>(a) to be reappointed as an alternate member for a 2nd term of office, and</p> <p>(b) to be appointed as a member under subsection (1)(b)(ii) or (iv), as the case may be.</p> <p>(7) The appointment of members pursuant to subsection (1)(b)(ii) shall be arranged so that at least 1 member from each class is reappointed or replaced each year.</p> <p>(8) Notwithstanding subsection (5), any member of the Board is eligible for appointment as chairman.</p>
Expiry of term	<p>5 A member of the Board continues to hold office after the expiry of his term of office until</p> <p>(a) he is reappointed,</p> <p>(b) his successor is appointed, or</p> <p>(c) a period of 3 months expires,</p> <p>whichever occurs first.</p>
Resignations	<p>6 If a person resigns his membership on the Board, his appointment as a member of the Board terminates on the effective date specified in his resignation or, if no effective date is specified, on the date of receipt of his resignation by the Board.</p>
Remuneration	<p>7 The members of the Board, other than the Executive Director and any other person who is an employee of the Government, shall be paid</p> <p>(a) remuneration for the performance of their duties as members of the Board, and</p> <p>(b) travelling and living expenses necessarily incurred in the performance of their duties as members of the Board,</p> <p>at rates prescribed by the Lieutenant Governor in Council.</p>
Clerical assistance	<p>8 The Minister may provide clerical and secretarial services required by the Board.</p>
Board rules	<p>9(1) The Board may make rules respecting the calling of its meetings, the conduct of business at its meetings and any other procedural matters it considers necessary.</p> <p>(2) Rules made under subsection (1) are not effective until they have been approved by the Minister.</p> <p>(3) The <i>Regulations Act</i> does not apply to rules made under subsection (1).</p>
Local Apprenticeship Committees	<p>10(1) The Board may appoint a Local Apprenticeship Committee for any designated trade in any area of Alberta in which it considers that activity relating to that trade is substantial.</p>

- (2) A Local Apprenticeship Committee may, with respect to the area and the designated trade for which it is appointed,
- (a) make recommendations to the Provincial Apprenticeship Committee on matters relating to apprenticeship, training and certification, and
 - (b) with the consent of the parties involved, hear complaints by and disputes between employees and employers pertaining to apprenticeship, training and certification and attempt to settle the complaints or disputes.
- (3) A Local Apprenticeship Committee may engage technical and other special advisors and any other assistance it considers necessary to assist it in carrying out its duties and exercising its powers under this Act and the regulations.
- (4) A Local Apprenticeship Committee shall consist of
- (a) an employee in the Department who is named by the Executive Director and who shall be chairman,
 - (b) at least 1 member representing employers and an equal number of members who are employees in the designated trade for which the Committee is appointed, and
 - (c) 1 alternate member representing employers and 1 alternate member who is an employee in the designated trade for which the Committee is appointed.
- (5) The member referred to in subsection (4)(a) is a non-voting member.
- (6) A person appointed under subsection (4)(b) or (c) shall be associated with and knowledgeable about the designated trade for which the Local Apprenticeship Committee is appointed.
- (7) A member of the Board shall not be a member of a Local Apprenticeship Committee.
- (8) Members of a Local Apprenticeship Committee appointed under subsection (4)(b) or (c) shall be appointed for a term not exceeding 3 years.
- (9) A member of a Local Apprenticeship Committee appointed under subsection (4)(b) is eligible for reappointment for a 2nd term of office, but not for a further term of office until the expiration of a period of 3 years after the end of his 2nd term.
- (10) An alternate member of a Local Apprenticeship Committee shall act during the temporary absence or inability to act of a member from the class the alternate member represents, and is eligible
- (a) to be reappointed as an alternate member for a 2nd term of office, and
 - (b) to be appointed as a member under subsection (4)(b).
- (11) Sections 5 to 8 and section 9(1) and (3) apply, with all necessary modifications, to a Local Apprenticeship Committee as if it were the Board.

11(1) There is hereby established a Provincial Apprenticeship Committee in respect of each designated trade, each of which shall consist of

(a) an employee in the Department who is named by the Executive Director and who shall be chairman, and

(b) the Local Apprenticeship Committee members for the trade in respect of which the Provincial Apprenticeship Committee is appointed.

(2) The member referred to in subsection (1)(a) is a non-voting member.

(3) In addition to the powers and duties given to or imposed on it under this Act and the regulations, a Provincial Apprenticeship Committee may, with respect to the designated trade for which it is appointed, make recommendations to the Board respecting matters related to apprenticeship, training and certification.

(4) A Provincial Apprenticeship Committee may engage technical and other special advisors and any other assistance it considers necessary to assist it in carrying out its duties and exercising its powers under this Act and the regulations.

(5) Sections 5 to 8 and section 9(1) and (3) apply, with all necessary modifications, to a Provincial Apprenticeship Committee as if it were the Board.

12(1) The Executive Director or a person appointed by him in writing may, for the purpose of determining whether this Act and the regulations are being complied with,

(a) at any reasonable hour and with the consent of the owner or person in control of the premises or place, enter and inspect any premises or place in which he has reason to believe an individual is or was employed in a designated trade;

(b) require an employer to produce books, records or documents containing the following information respecting any of his employees who the Executive Director or his appointee has reason to believe are or were engaged in a designated trade:

(i) payroll records;

(ii) job classifications;

(iii) type of work performed;

(iv) qualifications;

(c) make copies of documents referred to in clause (b) or remove them for the purpose of making copies of them.

(2) Where the Executive Director or his appointee removes any books, records or other documents under subsection (1)(c), he shall

(a) give to the person from whom the items were taken a receipt for the items, and

(b) forthwith return the items to the person from whom they were taken when they have served the purposes for which they were taken.

Application
to Court

13(1) Where the owner or person in control of a premises or place referred to in section 12(1)(a) refuses to allow the Executive Director or his appointee to exercise his powers under section 12 or hinders or interferes with the Executive Director or his appointee in the exercise of his powers, the Executive Director or his appointee may apply by originating notice to a judge of the Court of Queen's Bench for an order directing the owner or person in control to do or refrain from doing anything as the judge considers necessary in order to enable the Executive Director or his appointee to exercise his powers, and the judge may make the order accordingly.

(2) An application under subsection (1) may be made ex parte where the judge considers it proper to allow such an application.

Designation
of trades

14(1) The Lieutenant Governor in Council may make regulations

(a) designating trades as trades to which one of the following applies:

- (i) apprenticeship training and voluntary certification;
- (ii) apprenticeship training and compulsory certification;
- (iii) voluntary certification;
- (iv) compulsory certification;

(b) defining the tasks and activities that are included in a trade designated under clause (a).

(2) A designation may be made under subsection (1) whether or not an investigation has been made under section 15.

Investigation
initiated by
Minister

15 The Minister may instruct the Board to arrange for an investigation into a trade for the purpose of determining whether the trade should be designated under section 14 or whether the designation of the trade under section 14 should be rescinded and, on being so instructed, the Board shall arrange for the investigation and report the results of the investigation, together with its recommendations, to the Minister.

Issue of
certificates

16 The Executive Director may, in accordance with the regulations, issue Certificates of Completion of Apprenticeship, Certificates of Qualification and Certificates of Proficiency in a designated trade to persons who meet the requirements established in the regulations.

Termination and
cancellation

17(1) The Executive Director may cancel the registration of a contract of apprenticeship

- (a) with the agreement of the employer and the apprentice,
- (b) if he is satisfied that the employer or the apprentice has contravened this Act, the regulations or a term of the contract, or
- (c) if he is satisfied that the employer or the apprentice has shown good reason why the registration should be cancelled and no agreement to cancel the registration has been reached between them.

(2) The Executive Director may cancel or suspend a Certificate of Qualification or a Certificate of Proficiency

- (a) if the certificate holder contravenes this Act or the regulations, or
- (b) if it is in the public interest to do so.

(3) Where the Executive Director suspends a certificate under subsection (2), he may do so subject to any conditions he considers appropriate.

Appeal to Board **18(1)** A person who is aggrieved by a decision of the Executive Director

- (a) to refuse to register a contract of apprenticeship in accordance with the regulations,
- (b) to cancel or refuse to cancel the registration of a contract of apprenticeship, or
- (c) to cancel or suspend a Certificate of Qualification or a Certificate of Proficiency

may appeal the decision to the Board by filing a notice of appeal with the Board.

(2) A notice of appeal shall

- (a) set out the decision being appealed,
- (b) give the reasons for the appeal, and
- (c) be filed with the Board not more than 30 days after the appellant receives notice of the decision being appealed.

(3) When the Board receives a notice of appeal under subsection (1), it shall fix a date, time and place to hear the appeal.

(4) The Board shall notify all persons who, in the Board's opinion, are interested in the appeal of the date, time and place of the hearing.

(5) The Executive Director shall not sit as a member of the Board on an appeal under this section but may appear and make representations at the hearing.

(6) Subject to subsection (8), the Board shall, within 90 days after the appeal is filed with the Board, hear and dispose of the appeal and in writing notify the persons interested in the appeal of its decision.

(7) The Board may confirm, reverse or vary the decision of the Executive Director and make any decision that, in its opinion, the Executive Director should have made under subsection (1).

(8) The Board may adjourn a hearing under this section from time to time and may extend the time period referred to in subsection (6).

Appeal to Court **19** The Executive Director or a person whose appeal is heard by the Board may appeal the decision of the Board by filing an originating notice with the Court of Queen's Bench within 30 days of being notified of the decision, and the Court may make any order that the Board may make under section 18(7).

Offence to
perform work

20(1) No person shall

(a) perform any work in a trade designated under section 14(1)(a)(i) unless any of the following requirements applies:

(i) he has filed with the Executive Director an application for apprenticeship training in that trade and the application is subsisting;

(ii) he is an apprentice whose contract of apprenticeship in that trade is registered;

(iii) he is the holder of a Certificate of Completion of Apprenticeship in that trade;

(iv) the trade has been newly designated and he has applied for certification pursuant to regulations under section 23(1)(f) that authorize the certification in a newly designated trade of persons in the trade at the time the trade is designated;

(v) he is a trainee registered in a work experience program in that trade and the program is approved by the Executive Director;

(vi) he is a student engaged in a part-time work experience program in that trade and the program is approved by the Executive Director;

(vii) he is a disabled person authorized by the Executive Director to perform work included in the description of that trade;

(viii) he holds a special authorization issued by the Executive Director to perform the work;

(ix) the work is in factory mass production or in-plant assembly operations and the method and degree of supervision and inspection are approved by the Executive Director as being appropriate to the operations and processes used;

(x) he satisfies the Executive Director that he has worked in that trade outside of Alberta for at least the period of time prescribed in the regulations;

(xi) he is the holder of a Certificate of Qualification in that trade;

(xii) he meets certain work experience requirements that are prescribed by the regulations applicable to that trade;

(b) perform any work in a trade designated under section 14(1)(a)(ii) unless

(i) any of the requirements of clause (a)(i) to (ix) applies, or

(ii) he is the holder of a subsisting Certificate of Proficiency in that trade;

(c) perform any work in a trade designated under section 14(1)(a)(iv) unless

(i) any of the requirements of clause (a)(iv) to (ix) applies, or

(ii) he is the holder of a subsisting Certificate of Proficiency in that trade.

(2) Notwithstanding subsection (1), where a particular task is included within the description of more than 1 designated trade,

(a) a person who holds a Certificate of Qualification or a Certificate of Proficiency with respect to any of the designated trades in which that task is included, or

(b) a person to whom regulations under subsection (1)(a)(xii) respecting any of the designated trades in which that task is included apply

may perform that task.

(3) No person shall employ or otherwise permit a person to perform any work contrary to subsection (1).

(4) Nothing in subsection (1) prohibits an individual from performing work on property that is owned or occupied by him or his immediate family and is solely for his own personal use or the personal use of his immediate family.

(5) The Executive Director may

(a) give approvals for the purposes of subsection (1)(a)(v), (vi) and (ix), and

(b) give authorizations for the purposes of subsection (1)(a)(vii) and (viii).

Offence re:
contract of
apprenticeship

21 No person shall enter into a contract of apprenticeship in a designated trade except in accordance with the regulations.

Penalty

22 A person who contravenes this Act or the regulations is guilty of an offence and liable

(a) for the first offence to a fine of not more than \$1000, and

(b) for a 2nd or subsequent offence, to a fine of not more than \$2000.

Ministerial
regulations

23(1) The Minister may make regulations

(a) respecting the manner of making and handling requests for designation of trades under section 14;

(b) respecting the criteria to be considered by the Board when conducting investigations under section 15 or under regulations under clause (a) with respect to the designation of trades;

(c) respecting eligibility requirements of apprentices and their employers;

(d) respecting the administration of apprenticeship training programs, including, without limitation, regulations respecting

(i) the contractual obligations between apprentices and their employers,

(ii) matters relating to the contents, registration and transfer of contracts of apprenticeship,

- (iii) matters relating to the issuing, contents and use of record of progress books,
 - (iv) the maximum number of apprentices that may be employed by an employer,
 - (v) the term of apprenticeship to be served,
 - (vi) the granting of credit to a prospective apprentice for previous training and experience in a trade,
 - (vii) the hours of work and rates of wages for apprentices, subject to the *Employment Standards Act*, and
 - (viii) the instruction and practical training to be given to an apprentice;
- (e) providing for the issuing of Certificates of Completion of Apprenticeship;
- (f) providing for the issuing of Certificates of Qualification and Certificates of Proficiency including, without limitation, regulations respecting
- (i) eligibility requirements to receive a certificate,
 - (ii) the issuing of different classes of certificates,
 - (iii) the period of validity of certificates and the renewal of certificates, and
 - (iv) the issuing of temporary certificates;
- (g) providing that specified certificates issued with respect to a trade by a body or person other than the Executive Director are Certificates of Qualification or Certificates of Proficiency, as the case may be, for the purposes of this Act;
- (h) respecting reciprocal certification agreements between Alberta and other provinces respecting trades;
- (i) respecting all aspects of examinations
- (i) to determine eligibility of a person to become an apprentice in a designated trade,
 - (ii) given during apprenticeship training in a designated trade, and
 - (iii) to determine a person's eligibility to receive a Certificate of Completion of Apprenticeship, a Certificate of Qualification or a Certificate of Proficiency in a designated trade
- including, without limitation, regulations respecting
- (iv) the persons who must take examinations and the times at which and the manner in which and the conditions under which they must take them,
 - (v) the nature, scope and extent of examinations, and
 - (vi) the standards of achievement to be attained by persons taking examinations;

- (j) respecting the giving of
 - (i) educational improvement courses for persons who fail to meet the eligibility requirements for apprenticeship in designated trades,
 - (ii) courses for persons engaged in designated trades, and
 - (iii) technical courses in designated trades for persons who do not hold a Certificate of Completion of Apprenticeship, a Certificate of Qualification or a Certificate of Proficiency, as the case may be, in the trade;
- (k) respecting the payment of fees for any thing or service the Executive Director is required or permitted by the Act or the regulations to do or provide.
- (2) A regulation under subsection (1) may be made to apply
 - (a) generally to all trades designated under section 14,
 - (b) generally to all trades with the same designation under section 14, or
 - (c) to a particular trade designated under section 14.
- (3) Where any term of a collective agreement as defined in the *Labour Relations Act* that is applicable to an apprentice is less advantageous to him than the regulations under subsection (1) relating to the same subject matter, the regulations supersede the collective agreement in respect of that subject matter.

Consequential **24** *The Department of Manpower Act is amended*

- (a) *in section 1 by adding the following after clause (b):*
 - (c) “programs and services relating to manpower” includes
 - (i) information, counselling, planning and testing services to assist individuals in making choices of careers and occupations and to assist individuals in manpower training;
 - (ii) employment placement services;
 - (iii) manpower mobility services for the purpose of identifying locations inside or outside Alberta where recruitment of individuals in desired occupations may be successful, assisting employers in Alberta who desire to recruit employees inside or outside Alberta, and providing information and assistance to individuals inside or outside Alberta who desire employment in Alberta;
 - (iv) programs and services provided for under the *Apprenticeship, Training and Certification Act*;
 - (v) manpower training generally;
 - (vi) certification of the competence of individuals engaged in occupations other than designated trades under the *Apprenticeship, Training and Certification Act*;

- (vii) job creation and job training programs;
- (viii) consultative and advisory services.

(b) *by adding the following after section 5:*

5.1(1) The Lieutenant Governor in Council shall appoint an advisory body to the Minister known as the Manpower Advisory Council.

(2) The Manpower Advisory Council shall consist of 6 members who represent the general public interest, a chairman and any ex officio members who are recommended by the Minister.

(3) The Council shall

(a) conduct a continuing review of the manpower goals and needs of Alberta and of manpower development with respect to those goals and needs having regard to the general public interest;

(b) advise and make policy recommendations to the Minister on the basis of the review conducted pursuant to clause (a) and on any related matters which may from time to time be referred to it by the Minister;

(c) make an annual report of its activities to the Minister;

(d) make any interim reports or recommendations to the Minister that it considers desirable.

(4) The Council shall meet at the call of the chairman, but not less frequently than 5 times a year.

(5) The members of the Council shall be paid remuneration for their services and allowances for expenses necessarily incurred in the performance of their duties at a rate fixed by the Lieutenant Governor in Council.

Transitional

25(1) *In this section "former Act" means the Manpower Development Act.*

(2) *The members of the Alberta Apprenticeship and Trade Certification Board under the former Act continue as the members of the Alberta Apprenticeship, Training and Certification Board for the purposes of this Act until they are replaced or reappointed under this Act.*

(3) *The members of the Local Apprenticeship Committees and Provincial Apprenticeship Committees under the former Act continue as the members of the Local Apprenticeship Committees and Provincial Apprenticeship Committees for the purposes of this Act until they are replaced or reappointed under this Act.*

Repeals RSA
1980 cM-3

26 *The Manpower Development Act is repealed.*

Coming
into force

27 *This Act comes into force on Proclamation.*