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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 60

LABOUR CODE

THE MINISTER OF LABOUR

First Reading

Second Reading

Committee of the Whole

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Royal Assent

Bill 60

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Preamble

WHEREAS it is recognized that a mutually effective relationship between employees and employers is critical to the capacity of Albertans to prosper in the competitive world wide market economy of which Alberta is a part; and

WHEREAS it is fitting that the worth and dignity of all Albertans be recognized by the Legislature of Alberta through legislation that encourages fair and equitable resolution of matters arising in respect of terms and conditions of employment; and

WHEREAS the employee-employer relationship is based on a common interest in the success of the employing organization, best recognized through open and honest communication between affected parties; and

WHEREAS employees and employers are best able to manage their affairs where statutory rights and responsibilities are clearly established and understood; and

WHEREAS it is recognized that legislation establishing general employment standards and supportive of free collective bargaining is an appropriate mechanism through which terms and conditions of employment may be established;

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

Interpretation

1(1) In this Act,

(a) “Director of Employment Standards” means the person appointed under the *Public Service Act* as the Director of Employment Standards;

(b) “Director of Mediation Services” means the person appointed under the *Public Service Act* as the Director of Mediation Services;

(c) “Minister” means the Minister of Labour.

(2) A reference in this Act

(a) to “this Act” includes the regulations made under this Act, and

(b) to a Part of this Act includes the regulations made under that Part.

Delegation of Minister’s and Director’s responsibilities

2 When the Minister or the Director of Employment Standards or the Director of Mediation Services is given a power or duty under this Act, he may authorize 1 or more employees of the Crown in right of Alberta to exercise or perform that power or duty generally or with respect to any particular case on the conditions or in the circumstances that the Minister or Director prescribes, and that power or duty may then be exercised or performed by the employee so authorized in addition to the Minister or Director.

Witnesses

3(1) The Minister, a member of the Labour Relations Board, an employee of the Crown in right of Alberta employed in the administration of this Act 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 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 Labour Relations 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*.

PART 1

COMMUNICATION AND EDUCATION

Definitions

4 In this Part and Part 2,

(a) “collective agreement” has the same meaning that it has in Part 3;

(b) “employee” means an individual employed to do work who is in receipt of or entitled to wages, and includes a former employee;

(c) “employer” means a person who employs an employee, and includes a former employer;

(d) “employment record” means the record required to be maintained under section 19 and any other document or record that is necessary in order to determine whether an employee is entitled to wages, overtime pay, entitlements or parental benefits;

(e) “employment standards officer” means an individual appointed pursuant to the *Public Service Act* and designated by the Director of Employment Standards as an employment standards officer and includes the Director of Employment Standards;

(f) “entitlements” means vacation pay, general holiday pay and pay in place of notice of termination of employment;

(g) “forthwith” means within a reasonable time in view of the circumstances;

(h) “general holiday” means

(i) New Year’s Day,

(ii) Good Friday,

(iii) Victoria Day,

(iv) Canada Day,

(v) Labour Day,

(vi) Thanksgiving Day,

(vii) Remembrance Day,

(viii) Christmas Day,

(ix) any other day designated as a general holiday by the Lieutenant Governor in Council under this Act, and

(x) any other day designated by an employer in accordance with an agreement or by an established custom or practice as a general holiday for his employees;

(i) “general holiday pay” means the general holiday pay payable to an employee under this Act;

(j) “hours of work” means the period of time during which an employee works for his employer;

(k) “overtime pay” means a payment made or to be made in respect of those hours of work referred to and on the basis specified in section 27 or 28 or the regulations;

(l) “overtime rate” means a rate of pay at not less than 1.5 times the wages of an employee;

(m) “parental benefits” means the benefits to which an employee is entitled under Division 10 of Part 2;

(n) “pay period” means the period of employment established by an employer for the computation of wages or overtime pay;

(o) “served” means served in accordance with section 13;

(p) “umpire” means an individual appointed as an umpire under Part 2;

(q) “vacation pay” means vacation pay payable to an employee under Division 7 of Part 2;

(r) “wage” includes salary, pay, commission or remuneration for work, however computed, but does not include

(i) overtime pay,

(ii) entitlements,

(iii) a payment made as a gift or bonus that is dependent on the discretion of an employer and that is not related to hours of work, production or efficiency,

(iv) expenses or an allowance provided in place of expenses, or

(v) tips or other gratuities;

(s) “week” means, subject to section 23, 7 consecutive days;

(t) “work” includes providing a service.

Application

5(1) Subject to subsection (2), this Part and Part 2 apply to all employers and employees.

(2) Except for Division 10 of Part 2 and the other provisions of that Part that are necessary to give effect to that Division, this Part and Part 2 do 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 service appointed pursuant to the *Police Act* and their employers with respect to the employment of those employees;

(d) employees and employers to the extent that another Act or the regulations under Part 2 state that that Part or a provision of it does not apply to them.

- Powers of the Minister**
- 6(1)** Subject to the other provisions of this Act, the Minister may do those things he considers beneficial to the promotion of fair and equitable employment standards and labour relations in Alberta.
- (2)** Without restricting the generality of subsection (1), the Minister may
- (a) collect information and statistics relating to employment standards and labour relations, and
 - (b) disseminate information in a manner and form that he considers will best promote fair and equitable employment standards and labour relations.
- Multi-sector advisory council**
- 7(1)** The Minister may establish one or more councils to act in an advisory capacity with respect to employment standards and labour relations.
- (2)** The Minister may, with respect to a council established under this section,
- (a) appoint or provide for the manner of appointment of its members,
 - (b) prescribe the term of office of any member,
 - (c) designate or provide for the designation of a chairman, vice-chairman and secretary,
 - (d) authorize, fix and provide for the payment of remuneration and expenses to its members, and
 - (e) make rules governing the calling of its meetings, the conduct of business at its meetings, reporting and any other matters as required.
- (3)** A council established pursuant to this section may make rules governing any matter referred to in subsection (2)(e) to the extent that the Minister has not made rules under that clause governing the matter.
- (4)** Subject to the other provisions of this Act, a council established pursuant to this section may exercise the powers and shall perform the duties and functions that the Minister confers or imposes on it.
- Round-table conference**
- 8** The Minister may convene a conference consisting of representatives of business, trade unions, the academic community and any other groups he considers advisable for the purpose of developing a general understanding of Alberta's economic circumstances and those factors critical to continued economic growth.
- Regulations**
- 9(1)** The Lieutenant Governor in Council may make regulations
- (a) establishing structures and procedures through which employers and employees can consult, communicate and exchange information respecting matters of mutual interest related to the employment relationship;
 - (b) authorizing the Minister to direct an employer and his employees to participate in a structure or procedure established under clause (a);

- (c) co-ordinating any communication or consultation procedures established by the regulations under this section with the collective bargaining relationship between an employer and a certified bargaining agent;
 - (d) governing the nature of information that employers and employees must make available in support of the operation of communication or consultation procedures;
 - (e) establishing the size and nature of businesses to which the regulations apply, and any other conditions considered necessary to ensure effective implementation of regulations under this section.
- (2) A person who contravenes a direction of the Minister under the regulations under subsection (1) is guilty of an offence.
- (3) If there is a conflict between a regulation made under this section and a communication or consultation procedure established under a collective agreement or under Part 3, the communication or consultation procedure established under the collective agreement or Part 3 shall prevail.

**PART 2
EMPLOYMENT STANDARDS**

**Division 1
Operation**

Civil remedies and greater benefits

- 10(1)** Nothing in this Part affects
- (a) any civil remedy an employee has against his employer or that an employer has against his employee;
 - (b) a provision in an agreement, a right at common law or an established custom or practice that
 - (i) provides to an employee wages, overtime pay, entitlements, parental benefits or other benefits at least equal to those provided under this Part, or
 - (ii) imposes on an employer an obligation or duty greater than that provided under this Part.
- (2) If a collective agreement or any other agreement or a right at common law or an established custom or practice provides an employee with wages, overtime pay, entitlements, parental benefits or other benefits greater than that provided in this Part, the employer shall give those greater benefits to his employee.

Agreements excluding application of Part are void

11 An agreement by a person that this Part or a provision of it does not apply or that the remedies provided by it are not to be available for his benefit is against public policy and void.

Employment deemed continuous

12 For the purposes of this Part, the employment of an employee shall be deemed to be continuous and uninterrupted and this Part, including, without limitation, Divisions 7, 8, 9 and 10 applies to the

benefit of the employees when a business, undertaking or other activity or part thereof is sold, leased, transferred or merged.

**Division 2
Administration**

Service of
documents

13(1) If anything is required or permitted to be served under this Part it may, in addition to any other method provided by law, 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 there present who is apparently at least 18 years old, or

(ii) by sending it to him by double registered mail or certified mail to his residence, place of business or last known postal address;

(b) in the case of a corporation

(i) personally on a director, officer or the manager or person in charge of a place where the corporation carries on business,

(ii) by leaving it with some person who is apparently at least 18 years old at, or by sending it by double registered or certified mail to

(A) the registered head office of the corporation, or

(B) the office of the attorney of an extra-provincial corporation,

or

(iii) by sending it by double registered or certified mail to a director of the corporation at his residence or last known postal address;

(c) in the case of a partnership

(i) personally or by double registered or certified mail on any one or more of the partners, or a person having, at the time of service, control or management of the partnership business at the principal place of business of the partnership, or

(ii) by sending it by double registered or certified mail to any one or more of the partners at his residence or last known postal address.

(2) When it is necessary to prove service of anything in the course of any proceeding or prosecution under this Part,

(a) if service is effected personally, the date on which it is served is the date of service;

(b) if service is effected by double registered mail or certified mail, service of it shall be deemed to occur on

(i) the date of actual receipt, or

(ii) 7 days after the date of mailing where proof of service is received without evidence of the date received;

(c) if service is effected by leaving it with a person, service of it shall be deemed to occur on the date it was so left.

Certification
of copies

14 In a proceeding or prosecution under this Part,

(a) a copy of a notice, directive, order, approval, permit, determination, demand or declaration certified by an employment standards officer or an umpire to be a true copy, or

(b) a copy of an employment record or other document or an extract of an employment record certified to be a true copy by an employment standards officer or an employee of the Crown in right of Alberta employed in the administration of this Act,

shall be admitted in evidence as prima facie proof of the matters stated in it without proof that the certificate was signed by the person purporting to sign it or of the appointment of the person signing.

Certificate of
non-compliance

15 In a proceeding or prosecution under this Part a certificate of the Director of Employment Standards that an employer has failed to comply with a notice, directive, demand or order is prima facie proof of the failure of the employer to comply, without proof that the certificate was signed by the Director or of the appointment of the Director.

Authority of
officers

16(1) An employment standards officer may

(a) enter at any reasonable time any premises or other place in which he has reason to believe that an individual is or was employed for the purpose of inspecting employment records and making copies of them;

(b) require an employer, employee or any other person to provide oral or written statements respecting any matter relating to employment or employment records;

(c) make any inspection, investigation and inquiry that is necessary to ascertain whether this Part or any order, determination, demand or declaration made, permit or approval granted or notice given under this Part has been or is being complied with;

(d) question an employee, without his employer being present, during the employee's regular hours of work or otherwise to ascertain whether this Part or an order, determination, demand or declaration made, permit or approval granted or notice given under this Part has been or is being complied with;

(e) require a person supplying information or giving oral or written statements to give any of them in the form of a written statement under oath;

(f) by notice in writing, demand the production of employment records for inspection either forthwith or at a time, date and place specified in the notice;

(g) on giving a receipt for it, remove any employment record for not more than 48 hours for the purpose of making copies of it;

(h) by notice in writing, require an employer to record the times at which his employees start and stop work each day they work;

(i) by notice in writing, require an employer to post notices, communications or portions of this Act or the regulations at locations at the employer's place of business specified in the notice.

(2) Notwithstanding subsection (1)(a), an employment standards officer shall not enter a private dwelling unless the occupier of the dwelling consents to the entry.

Conditions attached to orders or directives

17(1) In exercising a power or duty under this Part, an employment standards officer may

(a) attach any conditions he considers necessary either generally or specifically, or

(b) specify a time within which anything must be done,

or both.

(2) Except as otherwise provided in this Part, a notice, directive or order given or an approval or permit granted by an employment standards officer under this Part may be revoked, amended or varied by an officer at any time or at those times specified in the notice, directive, approval or permit.

Assistance provided to officers

18 Every employer, every person acting on his behalf and every employee shall give whatever assistance is necessary to an employment standards officer to enable him to make an entry, inspection, investigation or inquiry.

Division 3

Employment Records

Maintenance of employment records

19(1) Subject to this Act, every employer shall maintain in each place of business operated by the employer in Alberta a record of the following in respect of each of his employees employed at that place of business:

(a) hours of work each day, recorded daily;

(b) wages and overtime pay paid;

(c) name, address and date of birth;

(d) date of commencement of the present term of employment;

(e) wage rate and overtime rate at commencement of employment, and date and particulars of each change to them;

(f) each annual vacation granted, showing

(i) the dates of commencement and completion, and

(ii) the period of employment covered by the annual vacation;

(g) amount of vacation pay paid;

(h) general holiday pay paid and the date on which a general holiday is taken if it is not taken on the actual day of the general holiday;

(i) amount of each deduction from the wages, overtime pay or entitlements of the employee and the purpose for which each deduction is made;

(j) copies of written requests to an employee to return to work after a temporary layoff and any notice of termination of employment;

(k) amount of money paid in place of notice of termination of employment;

(l) copies of all letters, documents and certificates relating to parental benefits.

(2) Subsection (1)(a) does not apply to an employee employed entirely in

(a) a supervisory capacity,

(b) a managerial capacity, or

(c) a capacity concerning matters of a confidential nature

and whose duties do not, other than in an incidental way, consist of work similar to that performed by other employees who are not so employed.

Location of
employment
records

20(1) An employer may, with the written consent of the Director of Employment Standards, maintain employment records in whole or in part at his principal place of business in Alberta or at any other place that the Director of Employment Standards may designate.

(2) A consent under subsection (1) is subject to any terms and conditions that the Director of Employment Standards may prescribe.

Keeping
employment
records

21 Employment records shall be retained by an employer for at least 3 years from the date each record is made.

Statement of
employment

22(1) Every employer shall, at the end of each pay period, provide each of his employees with a statement in writing, for retention by the employee, setting out for the period and in respect of the employee the following information:

(a) regular hours of work;

(b) overtime hours of work;

(c) wage rate;

(d) overtime rate;

(e) wages paid;

(f) overtime pay paid;

(g) vacation pay paid;

(h) general holiday pay paid;

- (i) money paid in place of notice of termination of employment;
- (j) amount of each deduction from the wages, overtime pay or entitlements of the employee and the purpose for which each deduction is made;
- (k) period of employment covered by the statement.

(2) An employer shall, on request, give to an employee a detailed statement as to the computation of the amount of wages, overtime pay and entitlements to which the employee is entitled and the method of computing any bonus or living allowance paid, whether or not it forms part of wages.

(3) On the termination of employment of an employee, an employer shall, on request, give to the employee a written statement showing the period or periods during which the employee was employed by him.

Division 4

Payment of Wages, Overtime Pay and Entitlements

Definitions

23 In this Division and in Division 5,

- (a) “day” means a 24-hour period ending at midnight or a 24-hour period as established by the consistent practice of an employer;
- (b) “month” means a calendar month, or the period from a time on a specific day in a month to the same time of the same day in the following month as established by the consistent practice of an employer;
- (c) “week” means the period between midnight on a Saturday and midnight on the following Saturday, or 7 consecutive days as established by the consistent practice of an employer;
- (d) “2-week period” means the period from midnight on a Saturday to midnight on the Saturday 2 weeks following, or 14 consecutive days as established by the consistent practice of an employer.

Period for computing wages and overtime pay

24 Wages and overtime pay shall be computed by an employer over a period of employment that does not exceed 1 month or any longer period that the Director of Employment Standards may approve.

Payment of wages, overtime pay and entitlements

25(1) Subject to subsection (2), within 7 days after the end of each pay period an employer shall pay to each employee the wages, overtime pay and entitlements earned by the employee in the pay period.

(2) If the employment of an employee is terminated, whether by the employer or the employee, the employer shall pay the employee the wages, overtime pay and entitlements to which the employee is entitled forthwith after the termination of employment.

(3) All wages, overtime pay and entitlements owing to an employee shall be paid by the employer

- (a) in Canadian currency,

(b) by cheque, bill of exchange or order to pay, payable on demand, drawn on a bank, treasury branch, credit union or trust company or other corporation insured under the *Canada Deposit Insurance Corporation Act* (Canada), or

(c) if the employer so chooses, by direct deposit to an account of the employee's choice in a bank, treasury branch, credit union or trust company or other corporation insured under the *Canada Deposit Insurance Corporation Act* (Canada).

Deductions

26(1) Subject to subsection (2), an employer shall not set off against, deduct, claim or make a claim against or accept from the wages, overtime pay or entitlements of an employee any sum of money.

(2) An employer may deduct from the wages, overtime pay or entitlements of an employee a sum of money that is

(a) permitted or required to be deducted by an Act or regulation or a judgment or order of a court, or

(b) subject to subsection (3), personally authorized in writing by the employee to be deducted or authorized to be deducted by a collective agreement that is binding on the employee.

(3) Notwithstanding any written authorization by an employee or authorization in a collective agreement, an employer shall not deduct from the wages, overtime pay or entitlements of an employee a sum for

(a) faulty workmanship, or

(b) cash shortages or loss of property if an individual other than the employee has access to the cash or property.

Division 5

Hours of Work and Overtime Pay

Hours of work
and overtime pay

27(1) Subject to sections 28 and 29, no employer shall require or permit an employee to work for more than 8 hours in a day or 44 hours in a week unless the employer pays that employee at the overtime rate in accordance with subsections (2) and (3).

(2) If in a week an employee completes 44 hours of work or less but on one or more of the days in the week he completes more than 8 hours of work, the overtime rate shall be paid for those hours of work in excess of 8 in each day.

(3) If in a week an employee completes more than 44 hours of work,

(a) the hours of work in excess of 8 in each day of the week shall be totalled, and

(b) the hours of work in excess of 44 in the week shall be totalled,

and the overtime rate shall be paid for whichever is the greater number of hours under clause (a) or (b), or if they are the same, that common number of hours.

Compressed
work week

28(1) For the purpose of containing hours of work within 8 days in a 2-week period, an employer may require or permit, through the

establishment of a specific schedule, an employee to work no more or less than 10 hours in a day and no more or less than 80 hours in a 2-week period.

(2) If in the 2-week period an employer requires or permits an employee to work, in an incidental way, more or less than 10 hours in a day or more or less than 80 hours in the 2-week period,

(a) the hours of work in excess of 10 in each day of the period shall be totalled, and

(b) the hours of work in excess of 80 in the period shall be totalled,

and the overtime rate shall be paid for whichever is the greater number of hours under clause (a) or (b), or if they are the same, that common number of hours.

(3) If in the 2-week period an employer requires or permits a variation of the daily or bi-weekly hours of work of an employee so as to constitute a prevalent departure from the schedule referred to in subsection (1), the overtime rate is payable in accordance with section 27.

(4) If an employee who works in accordance with this section completes more than 44 hours of work in the last week of his employment,

(a) the hours of work in excess of 10 in each day of the week shall be totalled, and

(b) the hours of work in excess of 44 in a week shall be totalled,

and the overtime rate shall be paid for whichever is the greater number of hours under clause (a) or (b), or if they are the same, that common number of hours.

Exempted
employees

29(1) Sections 27 and 28 do not apply to an employee employed entirely in

(a) a supervisory capacity,

(b) a managerial capacity, or

(c) a capacity concerning matters of a confidential nature

and whose duties do not, other than in an incidental way, consist of work similar to that performed by other employees who are not so employed.

(2) An employment standards officer may determine whether an individual is or is not employed entirely in a capacity referred to in subsection (1).

(3) A copy of the determination made under subsection (2) shall be served on the employer and employee affected by it.

(4) An employer or employee affected by a determination made under this section may appeal to an umpire in accordance with section 100.

Extended
hours of work

30(1) The hours of work of an employee shall be confined within a period of 10 consecutive hours in any one day unless

- (a) an accident occurs, urgent work is necessary to a plant or machinery, or other unforeseeable or unpreventable circumstances occur, in which case the hours of work shall be increased only to the extent necessary to avoid serious interference with the ordinary working of a business, undertaking or other activity,
- (b) the Director of Employment Standards issues a permit authorizing extended hours of work, or
- (c) a regulation permits extended hours of work.

(2) The Director of Employment Standards may issue a permit under subsection (1)(b) with respect to a place of business if he is satisfied that a majority of the employees at the place of business are in favour of the extended hours of work.

Hours of rest

31(1) An employer shall allow his employees at least

- (a) 1 day of rest each week,
- (b) 2 consecutive days of rest in each period of 2 consecutive weeks,
- (c) 3 consecutive days of rest in each period of 3 consecutive weeks, or
- (d) 4 days of rest in each period of 4 consecutive weeks.

(2) No employer shall cause an employee to work more than 24 consecutive days without 4 consecutive days of rest.

(3) An employer shall grant each of his employees a rest period of at least ½ hour during every 5 consecutive hours of work unless

- (a) an accident occurs, urgent work is necessary or other unforeseeable or unpreventable circumstances occur,
- (b) the Director of Employment Standards issues a permit authorizing the exemption to this section,
- (c) a regulation permits an exemption to this section,
- (d) pursuant to a collective agreement, different rest provisions are agreed to, or
- (e) it is not practical for the employee to take a rest period.

(4) The Director of Employment Standards may issue a permit under subsection (3)(b) with respect to a place of business if he is satisfied that a majority of the employees at the place of business are in favour of the exemption.

Notice re work
schedules

32(1) Every employer shall notify his employees

- (a) of the time at which work begins and ends, and
- (b) of the time at which each shift begins and ends,

by posting notices in places where they can be seen by his employees or by any other method the Director of Employment Standards approves.

(2) An employee shall not be required to change from one shift to another shift without at least

- (a) 24 hours' notice in writing of the change of shift, and
- (b) 8 hours of rest between shifts.

Notice of reduction in wages, etc.

33 An employer shall notify each of his employees affected by a reduction in wage rate, overtime rate or entitlements prior to the commencement of the pay period in which the reduction is to take effect.

Hours of work regulations

34(1) The Lieutenant Governor in Council may make regulations

- (a) prescribing the hours of rest to be provided to employees in addition to or in substitution for those specified in this Part during the period of time specified in the regulations;
- (b) governing the hours within which the hours of work of an employee are to be confined in addition to or in substitution for those specified in this Part;
- (c) prescribing those hours of work in respect of which the overtime rate is to be paid or is not to be paid, as the case may be, in addition to or in substitution for those specified in this Part and matters related thereto, and determining for the purpose of the regulation what constitutes an hour of work;
- (d) prescribing the hours of the day at which work is to begin and end and prohibiting the employment of employees other than during the hours prescribed.

(2) A regulation made under this section applies notwithstanding anything in this Part to the contrary.

Division 6 Minimum Wage

Minimum wage regulations

35 The Lieutenant Governor in Council may make regulations

- (a) fixing 1 or more minimum wages to be paid by employers to employees;
- (b) permitting or prohibiting deductions from a minimum wage;
- (c) fixing maximum amounts to be charged for board or lodging or both that are provided by employers to employees.

Employment of handicapped individuals

36 The Director of Employment Standards may issue to the employer or prospective employer of an individual who is handicapped a permit authorizing

- (a) the employer to pay the individual a wage at less than the minimum wage to which he would otherwise be entitled, and
- (b) the prospective employee to receive less than the minimum wage

if the Director of Employment Standards is satisfied that the proposed employment arrangement between the employer and prospective employee is satisfactory for both of them in all the circumstances.

Division 7
Vacations and Vacation Pay

Interpretation

37 In this Division,

(a) “year of employment” means a period of 12 consecutive months from

(i) the date on which the employee’s employment actually commenced, or

(ii) if a common anniversary date is established by an employer for the purpose of determining the vacation and vacation pay of his employees or a group of them, that common anniversary date,

and each subsequent period of 12 consecutive months;

(b) “5 years of employment” means 5 consecutive years of employment with an employer and may include more than 1 period of employment with the employer if not more than 3 months has elapsed between each period of employment.

Vacation and vacation pay entitlement

38(1) Subject to section 39, an employer shall give to each of his employees,

(a) after 1 year of employment with the employer, an annual vacation of at least 2 weeks, and

(b) after 5 years of employment with the employer, an annual vacation of at least 3 weeks

with vacation pay calculated in accordance with subsections (2) and (3).

(2) The vacation pay payable for each week of vacation to an employee who is paid by the month is an amount equal to the wage of the employee for his normal hours of work in a month divided by $4\frac{1}{3}$.

(3) The vacation pay payable to an employee who is paid other than by the month

(a) in the case of an employee who is entitled to 2 weeks of vacation is an amount equal to 4% of the employee’s wages for the year of employment with respect to which the vacation is given, and

(b) in the case of an employee who is entitled to 3 weeks of vacation is an amount equal to 6% of the employee’s wages for the year of employment with respect to which the vacation is given.

Proportionate reduction in vacation pay

39 If an employee does not work for his employer for all the days he would normally have been scheduled to work, the employer may reduce the employee’s vacation and vacation pay proportionately, according to the number of days that the employee was expected to work but did not do so.

Prorated vacation entitlement

40(1) If

- (a) an employee's year of employment is based on a common anniversary date, and
- (b) the employee commenced employment after that date in a year,

the employer shall give to that employee, after the next occurrence of the common anniversary date, an annual vacation in accordance with subsection (2) with vacation pay.

(2) The annual vacation of the employee shall be calculated on a pro rata basis bearing the same relationship to 2 weeks' vacation as the period of time elapsed between

- (a) the date the employee's employment commenced, and
- (b) the next occurrence of the common anniversary date,

bears to 1 year.

(3) The vacation pay payable under subsection (1) shall be calculated in accordance with section 38(2) and reduced proportionately according to the length of vacation to which the employee is entitled under subsection (2).

Payment of vacation pay

41(1) Subject to subsection (2), vacation pay shall be paid to an employee at least 1 day but not more than 2 weeks before the commencement of the employee's annual vacation or, at the request of the employee, on the employee's next scheduled pay day.

(2) If the employment of an employee is terminated, whether by the employer or the employee, the employer shall pay the employee, forthwith after termination of employment, vacation pay calculated,

- (a) in the case of an employee who has not become entitled to an annual vacation, an amount equal to 4% of his wages during his period of employment, or
- (b) if an employee has become entitled to an annual vacation, an amount equal to

- (i) the vacation pay to which he would have been entitled in that year if he had remained employed by the employer,

- (ii) in the case of an employee who has been employed for fewer than 5 years, 4% of his wages for the period from the date he was last entitled to an annual vacation to the date of termination of employment, and

- (iii) in the case of an employee who has been employed for 5 years or more, 6% of his wages for the period from the date he was last entitled to an annual vacation to the date of termination of his employment.

Annual vacation

42(1) An employer shall grant the annual vacation to which an employee is entitled in periods that are not shorter than 1 week.

(2) An employee shall be granted his annual vacation with vacation pay not later than 12 months after the date on which he becomes entitled to the annual vacation.

Notice by employer re annual vacation

43 If an employer and an employee cannot agree on the date of commencement of the employee's annual vacation, the employer shall give to the employee at least 2 weeks' written notice of the date on which the employee's annual vacation shall commence.

Vacation and vacation pay regulations

44(1) The Lieutenant Governor in Council may make regulations

(a) requiring an employer in an employment described or referred to in the regulations to pay an employee a sum of money as vacation pay in place of giving him an annual vacation with pay;

(b) governing what constitutes a period of employment that will entitle an employee to an annual vacation with vacation pay or to a payment of a sum of money as vacation pay in place of an annual vacation with vacation pay;

(c) governing what constitutes vacation pay, the method of computing it and the time at which it must be paid to an employee.

(2) A regulation made under this section applies notwithstanding anything in this Part to the contrary.

Division 8

General Holidays and General Holiday Pay

Definitions

45 In this Division,

(a) "average daily wage" means

(i) the daily wage of an employee averaged over the employee's employment with an employer, or

(ii) the daily wage of an employee averaged over the 9 weeks of employment with an employer immediately preceding the week in which a general holiday occurs,

whichever is the shorter period;

(b) "daily wage" means the wage to which an employee would be entitled if the employee worked on a normal working day of the employer that is not a general holiday.

When employee not entitled to general holiday pay

46 An employee is not entitled to general holiday pay if the employee

(a) has not worked at least 15 days of the 30 days immediately preceding the general holiday,

(b) does not work on a general holiday when he is required or scheduled to do so, or

(c) is absent from his employment without the consent of his employer on the employee's last regular working day preceding, or the employee's first regular working day following, a general holiday.

General holiday on working day

47 If a general holiday falls on a day that would, but for the general holiday, have been a working day for an employee and the employee does not work on that day, the employer shall pay the employee, for

that day, general holiday pay that is at least equal to the average daily wage of the employee.

General holiday pay entitlement

48 If a general holiday falls on a day that would, but for the general holiday, have been a working day for the employee and the employee works on the general holiday, the employer shall

(a) pay the employee general holiday pay

(i) for each hour of work of the employee on that day, a sum that is at least equal to 1.5 times the hourly wage of the employee, and

(ii) a sum that is at least equal to the average daily wage of the employee,

or

(b) provide the employee

(i) for each hour of work of the employee on that day, with a sum that is at least equal to the hourly wage of the employee,

(ii) with 1 days' holiday, not later than the next annual vacation of the employee, on a day that would, but for the holiday, be a working day for the employee, and

(iii) in respect of the holiday referred to in subclause (ii), with general holiday pay of a sum that is at least equal to the average daily wage of the employee.

General holiday on non-working day

49 If a general holiday falls on a day that is not normally a working day for an employee, but the employee is required or scheduled to work on the general holiday, the employer shall pay the employee, for each hour of work of the employee on that day, general holiday pay of a sum that is at least equal to 1.5 times the hourly wage of the employee.

General holiday during annual vacation

50 If a general holiday falls within the annual vacation of an employee, the employer shall, if the general holiday is one to which the employee would have been entitled if he had not been on his annual vacation, give the employee

(a) a holiday on what would have been the first day the employee would have worked after his annual vacation or, by agreement with his employer, on another day that the employee would have worked after his annual vacation and before his next annual vacation, and

(b) general holiday pay of a sum that is at least equal to the average daily wage of the employee.

Effect of general holiday on overtime calculation

51 If an employee works on a general holiday and is paid in accordance with section 48(a)(i), the hours worked shall not be considered in calculating any overtime pay under Division 5 for the week in which the general holiday occurs.

Prohibition re replacing general holiday

52 If an employee does not work on a general holiday, his employer shall not require him to work on another day of that week that would otherwise be a day of rest for the employee unless he is paid his wages and overtime pay, if any, for that day of work in addition to other wages and overtime pay due to him.

General holiday pay regulations

53(1) The Lieutenant Governor in Council may make regulations

(a) requiring an employer in an employment described or referred to in the regulations to pay an employee a sum of money as general holiday pay in place of giving him a general holiday with general holiday pay;

(b) governing the conditions on which an employee is entitled to general holiday pay under the regulations;

(c) governing what constitutes general holiday pay, the method of computing it and the time at which it must be paid;

(d) designating a day as a general holiday for the purposes of this Act.

(2) A regulation made under this section applies notwithstanding anything in this Part to the contrary.

Division 9

Termination of Employment

Definitions

54 In this Division,

(a) “notice of termination” means a written notice of termination of employment given by an employer to an employee in accordance with section 56 or by an employee to an employer in accordance with section 58;

(b) “temporary layoff” means

(i) a layoff of less than 60 days, or

(ii) a layoff of 60 days or more if during the period of layoff

(A) the laid off employee receives wages or payment in place of wages in an amount agreed to by the employer and employee, or

(B) the employer makes payments for the benefit of the laid off employee pursuant to a pension or employee insurance plan or the like.

Separate periods of employment deemed 1 period

55 For the purpose of this Division, when an employee has been employed by the same employer more than once, the periods of employment with that employer shall be considered to be 1 period of employment if not more than 3 months has elapsed between each period of employment.

Termination of employment

56(1) Subject to section 57, no employer shall terminate the employment of an employee unless he gives the employee

(a) notice of termination in accordance with subsection (2), or

(b) a sum of money in place of notice of termination in accordance with subsection (2)(b).

(2) If an employer wishes to terminate the employment of an employee by notice of termination, the employer shall give the employee

(a) written notice of termination of employment of at least

(i) 1 week, if the employee has been employed by the employer for more than 3 months but less than 2 years,

(ii) 2 weeks, if the employee has been employed by the employer for 2 years or more but less than 4 years,

(iii) 4 weeks, if the employee has been employed for 4 years or more but less than 6 years,

(iv) 5 weeks, if the employee has been employed for 6 years or more but less than 8 years,

(v) 6 weeks, if the employee has been employed for 8 years or more but less than 10 years, or

(vi) 8 weeks, if the employee has been employed for 10 years or more,

indicating on the notice the date it is issued, or

(b) a sum of money that is at least equal to the wages the employee would have earned if the employee had worked his regular hours of work for the period of notice applicable to the employee under clause (a).

(3) If the wages of an employee vary from 1 week to another or one 2-week period to another, as the case may be, the average of the employee's wages for the 3-month period that the employee worked immediately preceding the date of termination of employment shall be used in determining the sum to be paid to an employee pursuant to subsection (2)(b).

No notice of termination required

57 No notice of termination of employment or payment of money in place of notice of termination is required to be given or paid by an employer under this Part to terminate the employment of an employee if

(a) the employee has been employed by his employer for 3 months or less;

(b) the employee is employed at the site of and in the construction, erection, repair, remodelling, alteration, painting, interior decoration or demolition of any

(i) building or structure;

(ii) road, highway, railway or airfield;

(iii) sidewalk, curb or gutter;

(iv) pipeline;

(v) irrigation or drainage system;

- (vi) earth and rock fill dam;
 - (vii) sewage system;
 - (viii) power transmission line or power distribution system;
 - (ix) gas distribution system;
- other than an employee who
- (x) is employed to perform maintenance, or
 - (xi) is employed as an office employee;
- (c) the employee is employed for a definite term or task for a period not exceeding 12 months on completion of which the employment terminates;
 - (d) the employee is temporarily laid off;
 - (e) the employee's employment is terminated for just cause;
 - (f) the employee is laid off after refusing an offer by the employer of reasonable alternative work;
 - (g) the employee refuses work made available through a seniority system;
 - (h) the employee is not provided with work by his employer by reason of a strike or lockout occurring at the employee's place of employment;
 - (i) the employee on temporary layoff does not return to work within 7 days after being requested to do so in writing by his employer;
 - (j) the employee is employed under an agreement by which the employee may elect to either work or not work for a temporary period when requested to do so by his employer;
 - (k) the contract of employment is or has become impossible for the employer to perform by reason of unforeseeable or unpreventable causes beyond the control of the employer;
 - (l) the employee is employed on a seasonal basis and on the completion of the season the employee is terminated;
 - (m) the employee is employed in the cutting, removal, burning or other disposal of trees and brush or either of them for the primary purpose of clearing land and not for the harvesting of timber on it.

Notice of
termination by
employee

58(1) If an employee wishes to terminate his employment, the employee shall give his employer notice of his intent to terminate his employment of at least

- (a) 7 days, if the employee has been employed by the employer for more than 3 months but less than 2 years, or
- (b) 14 days, if the employee has been employed by the employer for 2 years or more.

(2) Subsection (1) does not apply where

(a) there is an established custom or practice in any industry respecting the termination of employment that is contrary in whole or in part to subsection (1),

(b) the employee terminates his employment because of endangerment to his personal health or safety if he continues to be employed with his employer,

(c) the contract of employment is or has become impossible for the employee to perform by reason of unforeseeable or unpreventable causes beyond the control of the employee,

(d) the employee is an employee referred to in section 57(a), (b), (d), (h), (j) or (m), or

(e) the employee terminates his employment because of a reduction in wage rate, overtime rate or entitlements.

Prohibition re
benefits on notice
of termination

59 When a notice of termination is given by the employer to the employee or by the employee to the employer,

(a) the employer shall not reduce the wages, rate of wages or alter any term or condition of employment of the employee,

(b) the employer shall, between the time that notice of termination is issued and the date of termination of employment, pay wages, overtime pay and entitlements to the employee at not less than the wages, overtime pay and entitlements to which he would have been entitled if the employee had worked his regular hours of work in that week whether or not work is required to be performed, and

(c) the employee remains in the employ of the employer until the date specified in the notice unless

(i) the employer gives the employee a sum of money in place of notice of termination in accordance with section 56(2)(b), or

(ii) the employee's employment is terminated under section 57(e), (f), (g), (h) or (k).

Continuation of
employment after
termination

60 Notice of termination is void and of no effect if an employee continues to be employed by his employer after the date specified for termination of employment.

Money in place
of notice of
termination

61(1) If an employee is to be given a sum of money in place of notice of termination, the employer shall pay that sum to the employee forthwith after the termination of employment.

(2) When a laid off employee ceases to be on temporary layoff and is no longer employed by the employer, the employment of the employee shall be deemed to have been terminated on the last day of temporary layoff and the employer shall pay to the employee a sum of money in place of notice of termination forthwith after the date that the employee ceases to be on temporary layoff.

Termination for redundancy or economic change

62 If an employer intends to terminate the employment of 50 or more employees within a 4-week period, the employer shall give to the Minister 4 weeks' written notice of intention to terminate employment specifying the number of employees whose employment will be terminated and the effective date of the terminations.

Division 10 Parental Benefits

Definitions

63 In this Division,

- (a) "date of delivery" means the date when the pregnancy of an employee terminates with the birth of a child or the pregnancy otherwise terminates;
- (b) "medical certificate" includes a written statement for the purpose of this Division containing the signature of a physician.

Entitlement to maternity leave

64(1) A pregnant employee who has been employed by an employer for a continuous 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 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.

(3) Subject to section 66, the maternity leave shall include a period of at least 6 weeks immediately following the actual date of delivery.

Notice to commence maternity leave

65(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 and, if so requested by her employer, shall provide her employer with a medical certificate certifying that she is pregnant and giving the estimated date of delivery.

(2) A pregnant employee is entitled to commence maternity leave referred to in section 64 on the expiration of the 2 weeks' notice given under subsection (1).

Shortening maternity leave

66 An employee, with the agreement of her employer, may shorten the duration of the 6-week period following the actual date of delivery by providing her employer with a medical certificate indicating that resumption of work by the employee will not endanger her health.

No notice of maternity leave

67 An employee who fails to comply with section 65 and who is otherwise entitled to maternity leave is entitled to maternity leave for any of the period specified in section 64(2) if within 2 weeks after she ceases to work she provides her employer with a medical certificate

- (a) indicating that she is not able to work by reason of a medical condition arising from her pregnancy, and

	(b) giving the estimated date of delivery or the actual date of delivery.
Extended maternity leave	68 When an employee takes maternity leave under this Division and is unable to return to work after the expiration of the period referred to in section 64(2) by reason of a medical condition of the employee or the child arising after the date of delivery, her employer shall grant the employee 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 owing to a medical condition arising following the date of delivery she is not able to return to work at that time.
Notice to commence maternity leave	69 If during the 12-week period immediately preceding the estimated date of delivery 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.
Adoption leave	70(1) An employer shall grant adoption leave, in accordance with subsection (2), to an employee who is the adoptive parent of a child under the age of 3 years and who <ul style="list-style-type: none"> (a) has been in the employment of the employer for a continuous period of at least 12 months, and (b) submits a written notice of leave to the employer at least 2 weeks before the employee can reasonably expect to first obtain custody of the child being adopted. <p>(2) Adoption leave consists of a period of not more than 8 weeks of leave without pay commencing on the date on which the adopting parent first obtains custody of the child being adopted.</p> <p>(3) Where an employee is unable to comply with subsection (1)(b), the employee shall give notice to the employer forthwith after receiving notice of the adoption.</p> <p>(4) Only 1 parent of a child referred to in subsection (2) shall be granted adoption leave under this section.</p>
Prohibition against termination of employment	71 Subject to section 73, no employer shall terminate the employment of or lay off an employee who <ul style="list-style-type: none"> (a) has commenced maternity leave, or (b) is entitled to or has commenced adoption leave, under this Division.
Notice of resumption of employment	72(1) An employee who wishes to resume employment on the expiration of parental leave under this Division shall give the employer 2 weeks' notice in writing of the day on which the employee intends to resume employment and the employer shall <ul style="list-style-type: none"> (a) reinstate the employee in the position occupied at the time that parental leave commenced, or

(b) provide the employee with alternative work of a comparable nature,

at not less than the same wages, entitlements and other benefits that had accrued to the employee to the date that parental leave commenced.

(2) No employer is required to allow an employee to whom maternity leave has been granted under this Division to resume her employment with the employer after the date of delivery until after the expiration of 2 weeks from the date on which the employee notifies the employer of her intention to resume employment.

Suspension of operations

73(1) If an employer has suspended or discontinued his business, undertaking or other activity wholly or partly during the period of an employee's parental leave under this Division and the employer has not resumed operations on the expiration of the employee's parental leave, the employer shall, on resumption of the business, undertaking or other activity,

(a) reinstate the employee in the position occupied at the time that parental leave commenced at not less than the same wages and entitlements and other benefits that had accrued to the employee to the date that parental leave commenced, or

(b) provide the employee with alternative work in accordance with an established seniority system or practice of the employer in force at the time the employee's parental leave commenced, with no loss of seniority or other benefits accrued to the employee to the date that the employee commenced parental leave.

(2) The requirement for an employer to reinstate or provide an employee with alternative work under subsection (1) extends for a period of 12 months from the date of expiration of the employee's parental leave.

Division 11

Employment of Young Persons

Regulations for employment of adolescents

74(1) Subject to subsection (3), no person shall during normal school hours

(a) employ, or

(b) permit to work on his premises

a child who is required to attend school under the *School Act*.

(2) Subject to subsection (3) and the regulations made under subsection (4), no individual under the age of 15 years shall be employed without the written consent of his parent or guardian and the approval of the Director of Employment Standards.

(3) Subsections (1) and (2) do not apply to an individual under the age of 15 years

(a) who has been excused from school attendance under the *School Act* for the purpose of vocational training through employment, or

(b) who is enrolled in a work experience program approved under the *School Act*.

(4) The Lieutenant Governor in Council may by regulation

(a) specify those occupations in which individuals under the age of 15 years may be employed, and authorize the Director of Employment Standards to approve occupations of a nature similar to those specified, subject to any conditions that are prescribed;

(b) impose any conditions with respect to employment of individuals under the age of 15 years in any occupation as he considers proper;

(c) prohibit the employment of individuals 15, 16 and 17 years old in any occupation that he considers unsuitable;

(d) establish any conditions with respect to the employment of individuals 15, 16 and 17 years old in any specific occupation that he considers proper;

(e) authorize the Director of Employment Standards to impose conditions on any particular occupation whenever he considers it necessary to do so;

(f) prohibit the employment of an individual under the age of 12 years.

Division 12

General Regulations

Regulations

75 The Lieutenant Governor in Council may make regulations

(a) exempting an employment described or referred to in the regulations from section 19, Divisions 4 to 9, 11 and 12 of this Part or a provision of or a regulation made under any of those Divisions;

(b) authorizing the Director of Employment Standards to approve a scheme of employment between an employer and his employees notwithstanding section 19, this Part or a regulation made under it;

(c) directing that a regulation or a part of it be of particular or general application, and describing or referring to an employment to which the regulation applies;

(d) specifying the times of the year during which a regulation applies;

(e) specifying the conditions under which a regulation applies or does not apply, and conferring or imposing on the Director of Employment Standards, with or without conditions, a power or duty under the regulation;

(f) delegating to the Director of Employment Standards, with or without conditions, the power to exempt from a regulation an employment described or referred to in the regulation.

Division 13
**Collection of Wages, Overtime Pay,
Entitlements and Parental Benefits**

Appointment of umpires **76** The Lieutenant Governor in Council may appoint umpires for the purposes of this Part.

Provincial judges as umpires **77(1)** If a provincial judge is appointed as an umpire he may issue or direct a clerk to issue a subpoena to any person who in the opinion of the umpire may be able to give evidence which relates to the appeal before him.

(2) A provincial judge acting as an umpire has the same powers

(a) to compel the attendance of witnesses, and

(b) to punish a witness for

(i) disobeying a subpoena to appear,

(ii) refusing to be sworn, or

(iii) refusing to give evidence

as are conferred on a provincial judge by the *Criminal Code* (Canada).

Attendance of individuals and production of documents **78(1)** An umpire

(a) may accept any oral or written evidence that he, in his discretion, considers proper, whether admissible in a court of law or not,

(b) is not bound by the laws of evidence applicable to judicial proceedings, and

(c) may summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce the documents and things that the umpire considers requisite to the full investigation and consideration of matters within his jurisdiction in the same manner as a court of record in civil cases.

(2) Nothing in this section requires an umpire who is a provincial judge to proceed under this section rather than section 77.

Division 14
Single Employer Declaration

Service of single employer declaration **79(1)** If, in the opinion of an employment standards officer, a business, undertaking or other activity is carried on or has been carried on by or through 2 or more employers or other persons or a combination of them, the officer may make a declaration that all or any of the employers or persons or combination of them are a single employer for the purposes of this Part.

(2) A copy of a declaration under subsection (1) shall be served on the employers or persons or both and the employees affected by it.

(3) An employer, employee or person affected by a declaration made under this section may appeal to an umpire in accordance with section 100.

Effect of
declaration

80 If an employment standards officer or, on appeal, an umpire makes a declaration that employers or persons or a combination of them are a single employer for the purposes of this Part, the employers or persons or combination of them declared to be a single employer are jointly and severally liable for the payment of wages, overtime pay and entitlements to those individuals who, as a result of the declaration, are considered to be employees of the single employer.

Division 15

Third Party Demand

Definitions

81 In this Division,

- (a) “third party” means a person to whom a Director’s demand is issued and includes the Crown in right of Alberta;
- (b) “Director’s demand” means a demand by the Director of Employment Standards under section 82 or a further demand under section 83(3).

Director’s
demand to
third party

82(1) If the Director of Employment Standards knows or has reason to believe that

- (a) an employer has failed or is likely to fail to pay wages, overtime pay or entitlements to an employee, and
- (b) a person is or is about to become indebted to the employer for a sum of money or is about to pay a sum of money to the employer,

the Director of Employment Standards may, notwithstanding that he has not determined the amount of wages, overtime pay or entitlements to which an employee is entitled, issue a demand in accordance with subsection (2) and serve it on the person referred to in clause (b).

(2) The demand under subsection (1) may direct the third party to remit to the Director of Employment Standards the money specified in the demand.

Duties of
third party

83(1) On service of the Director’s demand, the third party shall

- (a) if he is at the time of receipt of the demand indebted to the employer forthwith pay to the Director of Employment Standards 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 of Employment Standards 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 of Employment Standards accordingly.

(2) If the Director of Employment Standards is satisfied that a reply under subsection (1)(b) is true, the Director's demand shall be revoked.

(3) On receipt of a reply under subsection (1)(c), the Director of Employment Standards may revoke the demand and serve a further demand on the third party to take effect at a future date or on the happening of a future specified event.

(4) If a further demand is served under subsection (3), the demand continues in effect and the third party shall, as soon as he becomes indebted to the employer, pay to the Director of Employment Standards the amount of his indebtedness to the employer or the amount specified, whichever is the lesser.

Right of third party to make deductions

84 Notwithstanding anything in this Division, when a Director's demand is received by a third party, the third party may deduct from his payment any amounts that are owed to him by the employer.

Debt created

85(1) A Director's demand constitutes a debt owed by the third party to the Director on behalf of the employees in respect of whom the Director's demand is issued for the amount specified in the demand, and the debt arises

(a) at the time the demand is received, if the third party is then indebted to the employer, or

(b) if the third party is not indebted to the employer when he receives the Director's demand, when the indebtedness of the third party arises.

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

(3) The debt arising under this section is discharged if

(a) the third party pays to the Director of Employment Standards the sum required to be paid in the Director's demand,

(b) the Director's demand is revoked, or

(c) the employer pays his employees the wages, overtime pay or entitlements in respect of which the Director's demand was issued.

Liability of third party not to be discharged

86 A third party in receipt of a Director's demand does not discharge his indebtedness to an employer

(a) unless the Director's demand is revoked or he receives the approval of the Director of Employment Standards in writing to discharge all or part of the debt, or

(b) until he complies with the Director's demand.

Receipt issued by Director	87 The receipt of the Director of Employment Standards for money paid in accordance with a Director's demand is an absolute discharge of the liability of the third party to the employer to the extent of the amount shown on the receipt.
Payment of money received	88 When money is received in accordance with a Director's demand and an order has been filed under section 107 with respect to wages, overtime pay, entitlements or parental benefits owed by the employer, the Director of Employment Standards may pay the money in accordance with the order.
Director's notice of receipt of money	<p>89(1) When money is received in accordance with a Director's demand and no order has been filed under section 107 with respect to the wages, overtime pay, entitlements or parental benefits to which the employee claims to be entitled, the Director of Employment Standards shall forthwith serve the employer and employees concerned with a written notice stating</p> <ul style="list-style-type: none"> (a) the date of receipt of the money, (b) the amount received, (c) the amount of wages, overtime pay, entitlements or parental benefits to which an employee claims to be entitled, and (d) that, unless an appeal is made in accordance with section 100, the Director of Employment Standards will, on expiration of the period for appeal, pay <ul style="list-style-type: none"> (i) the amount received under the Director's demand, or (ii) the amount claimed as unpaid wages, overtime pay or entitlements, <p>whichever is less, to the employees concerned, and any balance remaining to the employer.</p> <p>(2) An employer or employee affected by a notice under subsection (1) may appeal to an umpire in accordance with section 100.</p>
Disposition of money received	<p>90(1) If there is no appeal under section 89, the Director of Employment Standards may pay the money in accordance with the notice served under section 89(1).</p> <p>(2) If there is an appeal under section 89, the Director of Employment Standards shall hold the money pending the disposition of the appeal by an umpire.</p>

Division 16

Recovery Provisions

Complaint	91 An employee may make a written complaint to the Director of Employment Standards that the employee is entitled to wages, overtime pay, entitlements, notice under section 33 or parental benefits.
Mediation by employment standards officer	92(1) An employment standards officer may mediate between an employer and an employee for the purpose of settling or compromising differences between them and in so doing may

- (a) receive from an employer, on behalf of an employee, the money agreed on by the parties in settlement of their differences;
- (b) pay to an employee money received on his behalf;
- (c) do any other things necessary to assist an employer and his employee to settle their differences.

(2) If an employment standards officer assists or attempts to assist an employer or an employee or both to reach a settlement or compromise, the officer is under no liability to either or both of them in respect of the settlement or compromise.

(3) When an employment standards officer pays any money received under subsection (1) to the employee, the employer is discharged from further liability to the employee with respect to the amount received by the employee.

Order of
employment
standards officer

93(1) If an employment standards officer is unable to mediate, settle or compromise a difference between an employer and his employee, the officer shall make an order under this section if he has determined that

- (a) wages, overtime pay or entitlements are due to an employee,
- (b) the employer contravened section 33 or Division 10, as the case may be, or
- (c) the employee was suspended or discharged contrary to this Part.

(2) Subject to section 95, an order of an employment standards officer may

- (a) direct an employer to pay to an employee, or to pay to the Director of Employment Standards on behalf of an employee, the wages, overtime pay or entitlements to which the employee is entitled,
- (b) in a case where notice under section 33 of a reduction in wages, overtime pay or entitlements was not given to an employee before the commencement of the pay period in accordance with that section, direct, with respect to the portion of the pay period before the employee was given notice, that the employer shall pay to the employee or to the Director of Employment Standards on behalf of the employee, an amount equivalent to the additional wages, overtime pay or entitlements the employee would have earned at the rates prior to the reduction,
- (c) direct the employer to pay to an employee, or to pay to the Director of Employment Standards on behalf of the employee, an amount equivalent to the wages that the employee would have earned if the employee had been reinstated or provided with alternative work in accordance with section 72 or 73 and that the officer considers should be paid, or
- (d) direct an employer to reinstate an employee who has been suspended or discharged contrary to this Part or pay the employee, or to the Director of Employment Standards on behalf of the employee, an amount equivalent to the wages that would

have been earned if the employee was not suspended or discharged.

(3) If an employment standards officer is unable to determine the amount of wages, overtime pay or entitlements that are due to an employee because the employer has not made or kept complete and accurate records under section 19 with respect to the employee, the officer may determine the amount in any manner he considers appropriate.

(4) An order under this section shall

- (a) name the employer to whom the order is directed;
- (b) name the one or more employees in respect of whom the order is made;
- (c) specify the amount payable in respect of each employee named in the order or that the employee shall be reinstated, as the case may be.

(5) A copy of an order under this section shall be served on

- (a) the employer to whom it is directed, and
- (b) each employee in respect of whom it is made.

(6) A person on whom an order of an employment standards officer is served under this section may appeal to an umpire in accordance with section 100.

Employee not entitled to wages, overtime pay, etc.

94(1) If an employment standards officer has determined that an employee making a written complaint is not entitled to wages, overtime pay, entitlements, notice under section 33 or parental benefits, as the case may be, the officer shall serve the employee with notice of his decision accordingly.

(2) An employee served under subsection (1) may, within 15 days from the date of service of the notice under that subsection, appeal to the Director of Employment Standards by serving on him a written notice of appeal specifying the reasons for it.

(3) On receipt of a notice of appeal under subsection (2), the Director of Employment Standards may

- (a) review the matter personally, or
- (b) direct another employment standards officer to review the matter.

(4) A decision of the Director of Employment Standards or an employment standards officer to whom a matter is referred under subsection (3)(b) that an employee is not entitled to wages, overtime pay, entitlements, notice under section 33 or parental benefits is final and binding.

(5) If the Director of Employment Standards or an employment standards officer to whom a matter is referred under subsection (3)(b) is satisfied that the employee is entitled to wages, overtime pay, entitlements, notice under section 33 or parental benefits, the Director

Limitation periods

of Employment Standards or the officer may make an order under section 93.

95(1) Subject to subsection (3), no order of an employment standards officer may be made with respect to wages, overtime pay, entitlements, notice under section 33 or parental benefits,

(a) in the case of an employee who is still employed by the employer who should have paid the money or provided the notice or benefits, after 1 year from the date on which the money should have been paid or the notice or benefits provided, as the case may be, and

(b) in the case of an employee who is not employed by the employer who should have paid the money or provided the notice or benefits, after 1 year from the date on which the employment of the employee with that employer terminated.

(2) Subject to subsection (3), no order of an employment standards officer may be made directing the reinstatement of an employee after 1 year from the date on which the employee was suspended or discharged contrary to this Part.

(3) Where the Director of Employment Standards considers there are extenuating circumstances, he may extend the limitation period under subsection (1) or (2) by an additional period of up to 1 year.

(4) An order of an employment standards officer may

(a) with respect to wages and overtime pay, direct the payment of wages or overtime pay or both for a period not exceeding 6 months from the date of

(i) the order of the employment standards officer, or

(ii) the termination of employment of the employee, if his employment was terminated,

whichever first occurs;

(b) with respect to vacation pay and general holiday pay, direct the payment of vacation pay or general holiday pay or both for a period not exceeding 2 years from the date of

(i) the order of the employment standards officer, or

(ii) the termination of employment of the employee, if his employment was terminated,

whichever first occurs;

(c) with respect to an amount referred to in section 93(2)(c) or (d), direct the payment of that amount, but not for a period exceeding 6 months from the date of

(i) the order of the employment standards officer, or

(ii) the suspension or discharge of the employee contrary to this Part or the failure of the employer to reinstate the employee or provide alternative work under section 72 or 73,

whichever first occurs.

Order re claims, counterclaims, etc.

96 An order of an employment standards officer may take into account deductions authorized or permitted under this Part but shall not take into account any claim, counterclaim or set-off by an employer against an employee.

Limitation on revocations, etc.

97(1) An employment standards officer may revoke, amend or vary an order, declaration or determination issued under this Part at any time before the time for an appeal under section 100 has expired, if one is allowed, but not after that time.

(2) The Director of Employment Standards may vary or amend a notice issued under section 89 at any time before the time for an appeal under section 100 has expired, but not after that time.

(3) The Director of Employment Standards may revoke

(a) an order of an employment standards officer under section 93 at any time before it is filed in the Court of Queen's Bench, or

(b) a determination under section 29(2), a declaration under section 79 or a notice under section 89 at any time,

notwithstanding that an appeal has been made to an umpire under section 100.

(4) If the Director of Employment Standards revokes an order that has been appealed to an umpire under section 100, he shall return to the appellant any money paid to him under subsection (3) of that section.

Variation or amendment of order, etc.

98 If an order, declaration, determination or notice is varied or amended,

(a) a copy of the variation or amendment shall be served on each person on whom the original order, declaration, determination or notice was served, and

(b) the time for making an appeal runs from the date of service of the variation or amendment.

Settlement or compromise by Director

99(1) Notwithstanding anything contained in this Part, the Director of Employment Standards may

(a) refuse to accept a complaint or to institute or continue any proceeding or prosecution for the failure of an employer or employee to comply with this Part, or

(b) settle or compromise any difference between an employer and an employee under this Part and receive money on behalf of the employer in settlement of the difference.

(2) When the Director of Employment Standards pays any money received under subsection (1) to the employee, the employer is discharged from further liability to the employee with respect to the amount received by the employee.

Division 17
Appeal to Umpire

Appeal to umpire **100(1)** A person who has a right of appeal to an umpire under this Part may appeal to an umpire by serving on the Director of Employment Standards written notice of appeal specifying the reasons for the appeal.

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

- (a) a copy of an order under section 93,
- (b) a copy of a declaration under section 79,
- (c) a copy of a determination made under section 29(2), or
- (d) a copy of a notice under section 89.

(3) In the case of an appeal by an employer, the notice of appeal of an order under section 93 shall be accompanied by a money order or certified cheque payable to the Director of Employment Standards in an amount equal to

- (a) the amount ordered to be paid under section 93, or
- (b) \$300,

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

(4) When the appellant complies with subsection (2), and subsection (3) if applicable, the Director of Employment Standards shall refer the appeal to an umpire.

(5) The Director of Employment Standards shall notify

- (a) the appellant, and
- (b) each employer and employee who is a party to the appeal,

of the date, time and place that the appeal will be heard.

(6) The Director of Employment Standards is a party to every appeal to an umpire and in connection with every proceeding resulting from an order of an employment standards officer or umpire.

Abandonment of appeal **101** If a person making an appeal wishes to abandon it, he may do so by serving a notice in writing on the Director of Employment Standards accordingly and providing copies of the notice to the other parties concerned.

Proceedings at hearing **102** At a hearing,

- (a) if the appellant fails to appear, the umpire may declare the appeal abandoned or adjourn the matter, or
- (b) if any other person fails to appear, the umpire may adjourn the matter or proceed in the absence of the person who fails to appear.

- Umpire's powers on appeal **103**(1) After hearing an appeal from an order of an employment standards officer, the umpire may
- (a) confirm, vary or revoke the order of the employment standards officer, or
 - (b) revoke the order of the employment standards officer and substitute for it any order that the officer could have made.
- (2) With respect to an appeal from a determination by an employment standards officer under section 29(2), an umpire may confirm or revoke the determination or make any determination that he considers necessary to resolve the difference.
- (3) With respect to an appeal from a declaration under section 79,
- (a) an umpire may, if he is satisfied that a business, undertaking or other activity is carried on or has been carried on by or through more than one employer or person, confirm or vary the declaration or revoke it and substitute for it a declaration that, for the purposes of this Part, the employers or persons named in the declaration are a single employer, or
 - (b) the umpire, if he is not satisfied under clause (a), shall revoke the declaration.
- (4) With respect to an appeal from a notice of the Director of Employment Standards under section 89, the umpire may make any 1 or more of the following orders:
- (a) an order for the payment of wages, overtime pay or entitlements by an employer to employees, or to the Director of Employment Standards on behalf of employees that he considers appropriate;
 - (b) an order revoking the notice and the Director of Employment Standards' demand under Division 15;
 - (c) an order requiring the Director of Employment Standards to repay money received by the Director of Employment Standards to the person who paid it, or to the employer.
- Umpire's order **104** An order of an umpire may take into account deductions authorized or permitted under this Part but shall not take into account a claim, counterclaim or set-off by an employer against an employee.
- Umpire's order final and binding **105** An order, declaration or determination of an umpire is final and binding.
- Disbursement of money held by Director **106**(1) When an appeal of an order under section 93 is completed, the Director of Employment Standards shall pay the money that was paid to him under section 100 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 of Employment Standards under subsection (1) is less than the amount of wages, overtime pay or entitlements ordered to be paid to the employee, the

Director of Employment Standards may enforce the unpaid portion of the order in accordance with Division 18.

(4) No action or proceeding lies or shall be instituted against the Director of Employment Standards for acting in compliance with this section or section 89, 90 or 99.

Division 18

Enforcement of Orders

Filing of order

107 If

(a) an order of an employment standards officer is not complied with and the time for an appeal has expired, or

(b) an order of an umpire is not complied with,

the Director of Employment Standards may file the order with the clerk of the Court of Queen's Bench in the judicial district in which the order was made and the order is then enforceable as an order or judgment of the Court of Queen's Bench.

Reciprocal enforcement of orders

108(1) If the Lieutenant Governor in Council is satisfied that reciprocal provisions will be made by another province of Canada for the enforcement of orders of employment standards officers or umpires issued under this Part, he may, by order,

(a) declare the province to be a reciprocating province for the purpose of enforcing orders, certificates or judgments for the payment of wages, overtime pay or entitlements made under an enactment of that province, and

(b) designate an authority within that province as the authority who may make applications or certificates under this section.

(2) If an order, certificate or judgment for the payment of wages, overtime pay or entitlements has been obtained under an enactment of a reciprocating province, the designated authority may apply to the Director of Employment Standards to enforce the order, certificate or judgment.

(3) On receiving a copy of the order, certificate or judgment for the payment of wages, overtime pay or entitlements

(a) certified to be a true copy by the court in which the order, certificate or judgment is registered, or

(b) if there is no provision in the reciprocating province for registration of the order, certificate or judgment in a court, certified to be a true copy by the designated authority,

and on being satisfied that the wages, overtime pay or entitlements are still owing, the Director of Employment Standards shall file the copy of the order, certificate or judgment with the clerk of the Court of Queen's Bench and the order is then enforceable as an order of an employment standards officer or umpire.

Division 19

Protection of Wages, Overtime Pay and Entitlements

Deemed trust

109(1) Notwithstanding any other Act, every employer shall be deemed to hold all wages, overtime pay, vacation pay and general holiday pay accruing due or due to an employee in trust for the employee, whether or not the amount accruing due or due has in fact been kept separate and apart by the employer.

(2) Subject to subsection (3) and section 110, wages, overtime pay, vacation pay and general holiday pay accruing due or due to an employee shall be deemed to be a secured charge on the property and assets of the employer to a maximum of \$7500 and payable in priority to any other claim or right in the property or assets including

(a) any claim or right of the Crown in right of Alberta, including, without limitation, claims or rights of the Workers' Compensation Board, and

(b) any lien, charge, encumbrance, mortgage, assignment, including an assignment of book debts, debenture or other security of whatever kind of any person

made, given, accepted or issued before or after the wages, overtime pay, vacation pay or general holiday pay accrued due without registration of the secured charge.

(3) The secured charge referred to in subsection (2) does not take priority over a conditional sales agreement that is entered into prior to the wages, overtime pay, vacation pay or general holiday pay accruing due and is registered in accordance with the *Conditional Sales Act*.

(4) This section and section 110 apply notwithstanding any other Act.

Registration
of order

110(1) The Director of Employment Standards may file in a land titles office an order of an employment standards officer or an umpire respecting wages, overtime pay, vacation pay or general holiday pay.

(2) The secured charge referred to in section 109(2) does not attach to real property until the order referred to in subsection (1) is registered in a land titles office.

(3) The registration of an order referred to in subsection (1) creates a secured charge in favour of the Director, on behalf of the employee in respect of whom the order was filed, for the amount of wages, overtime pay, vacation pay or general holiday pay set out in the order, against all land or interests in land owned or held by the employer who owes the wages, overtime pay, vacation pay or general holiday pay.

(4) A secured charge referred to in subsection (3) has the same priority it would have if it were a mortgage registered against land or an interest in land.

(5) On payment of the wages, overtime pay and entitlements that are the subject of the secured charge, the Director shall cause a registration under this section to be discharged.

Division 20
Prohibitions, Offences and Penalties

Prohibition on dismissal re garnishment proceedings	<p>111 No employer or other person shall dismiss, terminate, lay off or suspend an employee for the sole reason that garnishment proceedings are being or may be taken against an employee.</p>
Specific prohibitions	<p>112 No employer or any other person shall discharge, restrict the employment of or in any manner discriminate against an individual because an individual</p> <ul style="list-style-type: none">(a) has made a complaint under this Part,(b) has given evidence or may give evidence at any inquiry or in any proceeding or prosecution under this Part,(c) requests or demands anything to which he is entitled under this Part, or(d) has made or is about to make any statement or disclosure that may be required of him under this Part.
Specific offences	<p>113(1) If an employee works for less than the minimum wage to which he is entitled, the employer of that employee and the employee are each guilty of an offence.</p> <p>(2) If an employee works for less than the overtime rate to which he is entitled, the employer of the employee and the employee are each guilty of an offence.</p> <p>(3) If an employee directly or indirectly returns to his employer all or part of his wages, thereby effecting a reduction of the wages, overtime pay or entitlements actually received and retained by the employee to an amount less than the minimum wage or less than the overtime rate to which the employee is entitled, the employee and his employer are each guilty of an offence.</p>
Offences	<p>114 An employer, employee or other person who</p> <ul style="list-style-type: none">(a) contravenes or fails to comply with an order, declaration or determination of an umpire,(b) contravenes or fails to comply with an order, directive, declaration or determination, permit, approval or notice of an employment standards officer or a demand of the Director of Employment Standards,(c) delays or obstructs an employment standards officer in the exercise of a power or duty given to him under this Part,(d) requires an employee to work hours in excess of the hours of work permitted under this Part,(e) contravenes section 62,(f) contravenes section 71,(g) contravenes section 74(1) or (2) or a regulation made under section 74(4),(h) falsifies any employment record,

- (i) gives any false or misleading information in respect of employment records,
- (j) makes a complaint to an employment standards officer knowing it to be untrue,
- (k) fails to maintain or retain an employment record required to be maintained and retained under this Part, or
- (l) contravenes section 111 or 112

is guilty of an offence.

Premium for employment prohibited

115 An employer who receives a payment directly or indirectly from a person for the purpose of employing that person is guilty of an offence.

Employer offences

116 Any employer who fails

- (a) to pay the minimum wage,
- (b) to pay at least the overtime rate,
- (c) to pay wages,
- (d) to give notice of a reduction in wages, overtime rate or entitlements,
- (e) to give his employees a vacation with pay or a sum of money in place of vacation with pay,
- (f) to give his employees a sum of money
 - (i) for working on a general holiday,
 - (ii) for a general holiday on which he does not work, or
 - (iii) in place of a general holiday,
- (g) to give notice of termination of employment or a sum of money in place of notice of termination,
- (h) to provide parental benefits, or
- (i) to reinstate an employee in accordance with section 72, 73 or 93(2)(d),

to which an employee is entitled, is guilty of an offence.

Offence and penalty

117(1) When a corporation is guilty of an offence, every director or officer of the corporation who directed, authorized, assented to, permitted, participated in or acquiesced in the offence is also guilty of an offence.

(2) In addition to any other penalty imposed under section 118, the judge shall, if applicable, make 1 or more of the following orders:

- (a) requiring the payment, within the time fixed by the judge, to the Director of Employment Standards on behalf of each employee affected, of the difference between
 - (i) the minimum wage actually paid, if any, and the minimum wage that should have been paid,

(ii) the overtime pay actually paid, if any, and the overtime pay that should have been paid,

(iii) the wages actually paid, if any, and the wages that should have been paid, and

(iv) the sum of money paid in place of notice of termination, if any, and the sum of money in place of notice of termination that should have been paid,

for the 6 months preceding the date of the commencement of a prosecution or the date of termination of employment, whichever first occurs;

(b) requiring, within the time fixed by the judge, the payment to the Director of Employment Standards on behalf of each employee of

(i) the amount to which the employee is entitled in place of vacation with pay,

(ii) a sum of money for working on a general holiday or for a general holiday on which he does not work to which the employee is entitled,

(iii) the amount to which the employee is entitled in place of a general holiday,

(iv) the amount of wages and entitlements that the employee would have earned if the employee had been reinstated or provided with alternative work in accordance with section 72 or 73 and that the employment standards officer considers should be paid, or

(v) the amount of wages that would have been earned if the employee was not suspended or discharged contrary to this Part

for the 2 years preceding the date of the commencement of the prosecution or the date of termination of the employment, whichever first occurs;

(c) in a case where notice under section 33 of a reduction in wages, overtime pay or entitlements was not given to an employee before the commencement of the pay period in accordance with that section, direct with respect to the portion of the pay period before the employee was given notice that the employer shall pay to the employee or to the Director of Employment Standards on behalf of the employee, an amount equivalent to the additional wages, overtime pay or entitlements the employee would have earned at the rates prior to the reduction.

Penalty

118 An employer, employee, director, officer or other person who is guilty of an offence under this Part is liable,

(a) in the case of a corporation, to a fine of not more than \$10 000, and

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

Prosecutions **119** A prosecution for an offence under this Part may be commenced within 1 year from the date the alleged offence occurred.

PART 3 LABOUR RELATIONS

Definitions **120** In this Part,

- (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 that acts 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 and may include 1 or more documents containing 1 or more agreements;
- (g) “dispute” means a difference or apprehended difference arising in connection with the entering into, renewing or revising of a collective agreement;
- (h) “disputes resolution tribunal” means
 - (i) a mediation board referred to in Division 11,
 - (ii) a voluntary arbitration board referred to in Division 13,
 - (iii) a compulsory arbitration board referred to in Division 14,
 - (iv) a disputes inquiry board referred to in Division 15, or
 - (v) a public emergency tribunal referred to in Division 16;
- (i) “employee” means a person employed to do work who is in receipt of or entitled to wages, but does not include
 - (i) a person other than a firefighter who, in the opinion of the Board, exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations,
 - (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, or

- (iii) a firefighter who is the chief or a deputy chief of the fire department in which he is employed;
- (j) “employer” means a person who customarily or actually employs an employee;
- (k) “employers’ organization” means an organization of employers that acts on behalf of an employer or employers and 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;
- (l) “firefighters” means the employees, including officers and technicians, employed by a municipality and assigned exclusively to fire protection and fire prevention duties notwithstanding that those duties may include the performance of ambulance or rescue services;
- (m) “labour relations officer” means a person designated under section 122(5) and includes a member of the Board;
- (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 the polling of a single employer or a vote of employers under section 185;
- (p) “mediator” means a person appointed as a mediator under section 177 or 178;
- (q) “registered employers’ organization” means an employers’ organization registered as an agent for collective bargaining by the Board;
- (r) “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;
- (s) “strike vote” means a vote of employees under section 185;

(t) “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;

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

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

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

Application
of Part

121(1) Subject to subsection (2), this Part applies to every employer and employee and is binding on the Crown in right of Alberta.

(2) This Part 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 Part does not apply by virtue of a provision of another Act;

(d) employees who are police officers of a municipal police service appointed pursuant to the *Police Act* except where made applicable by the *Police Officers Collective Bargaining Act*;

(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 he is 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.

Division 1

Labour Relations Board

Composition
of Board

122(1) The Labour Relations Board previously established is continued as the Labour Relations Board.

(2) The Board shall be composed of persons appointed as members of the Board by the Lieutenant Governor in Council, 1 of whom shall be designated as Chairman, and others of whom may be designated as vice-chairmen.

(3) The members of the Board shall be appointed to hold office for terms not exceeding

(a) 5 years in the case of the Chairman and vice-chairmen, and

(b) 3 years in the case of any other members,

and may be reappointed for additional terms to commence on the expiry of their appointment.

(4) The members of the Board shall be paid expenses, allowances and remuneration for their services as determined by the Lieutenant Governor in Council.

(5) The Chairman may, in writing, designate officers of the Board for the purposes of this Part.

123(1) The members of the Board shall meet at the times and places specified by the Chairman or a vice-chairman, and may meet as the Board or as divisions of the Board.

(2) At the direction of the Chairman, a vice-chairman shall preside at a meeting of the Board or one of its divisions.

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

(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.

(6) If a member of the Board resigns or his appointment terminates, he may carry out and complete the duties or responsibilities and continue to exercise the powers that he would have had if he had not ceased to be a member in relation to a proceeding in which he participated as a member of the Board, until the proceeding is completed.

(7) Notwithstanding subsection (3), the Chairman or a vice-chairman may sit alone to hear and decide a question under section 124(3)(b), (d), (l), (m), (n) or (o) or section 185(4).

(8) When the Chairman or a vice-chairman sits alone under subsection (7) or the Board meets as a division of the Board under subsection (3), the Chairman, vice-chairman or division, as the case may be, shall be deemed to be the Board for the purposes of this Act.

(9) Notwithstanding subsections (2) to (7), the Chairman may, where in the interest of settlement of the matter in dispute it is desirable to do so, assign any matter before the Board to a panel consisting of 1 or 3 members of the Board for the purposes of conducting hearings, engaging in efforts at settlement, and issuing reports and decisions, as may be necessary to resolve the matter in dispute.

(10) In conducting a proceeding under subsection (9) the member or members designated, for the purposes of the matter before them, have all the powers and authority of the Board, but their procedures shall be informal, and without prejudice to the right of any party to the proceeding to appeal their decision with respect to any matter to the Board.

(11) If the decision of a member or a majority of the 3 members of the Board designated under subsection (9) is appealed to the Board,

(a) the member or members designated under subsection (9) are not eligible to hear the appeal, and

(b) the quorum of the Board or a division of the Board that hears the appeal is the Chairman or a vice-chairman presiding at the meeting and 4 other members.

(12) Where a member or a majority of the 3 members of the Board designated under subsection (9) makes a decision that is not appealed to the Board within 10 days from the date the decision is communicated to the parties, or such longer period for appeal as the Board may allow, the decision of the member or members shall be deemed to be a decision of the Board effective as of the date on which it was made.

Powers of
the Board

124(1) Notwithstanding anything in this Act, the powers and duties of the Board shall be performed and exercised in a manner consistent with the jurisdiction conferred on the Board by this Act or any other enactment conferring jurisdiction on the Board.

(2) The Board may for the purposes of this Part

(a) receive applications, references and complaints,

(b) conduct any inquiries, investigations, and hearings that it considers necessary, either itself or through its labour relations officers,

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

(d) make or issue any interim orders, decisions, directives or declarations it considers necessary pending the final determination of any issue before the Board,

(e) make or issue any orders, decisions, notices, directives, declarations or certificates it considers necessary,

(f) make rules of procedure for the conduct of its business, for the giving of notice, for the service of documents, for hearing and conducting inquiries and for any other matters it considers necessary,

(g) through its members, labour relations officers and other representatives undertake efforts to assist the parties to a proceeding before the Board to settle the matter, and

(h) award any costs it considers appropriate in the circumstances if an application, reference, complaint or a reply or defence thereto is, in the opinion of the Board, trivial, frivolous, vexatious or abusive.

(3) The Board may decide for the purposes of this Part 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,
- (q) a strike has occurred or is lawful under this Act, or
- (r) a lockout has occurred or is lawful under this Act,

and the Board's decision is final and binding.

(4) 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, whether or not an application has commenced under section 131(2), reconsider any decision, order, directive, declaration or ruling made by it and vary, revoke or affirm the decision, order, directive, declaration or ruling.

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

Inquiries,
investigations
and inspections

125(1) The Board or a labour relations 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 relevant to employment or terms and conditions of employment or relevant to the membership or constitution of a

trade union or employers' organization, 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, trade union, employee or other person to post any notices or other communications of the Board at the locations that the Board or labour relations officer, as the case may be, considers advisable.

(2) For the purposes of this Act, a labour relations 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,

(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 a labour relations officer have been complied with, and

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

(3) An employers' organization, employer, trade union and employee, and any person acting on their behalf, shall give reasonable assistance to the Board and labour relations officers to enable them to do any of the things referred to in this section.

Evidence

126(1) For the purposes of this Act a labour relations officer may administer oaths.

(2) Subject to subsection (3), the Board may, by order, summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce the documents and things the Board considers requisite to the full investigation and consideration of matters within its jurisdiction in the same manner as a court of record in civil cases.

(3) If any person fails to comply with a Board order made under subsection (2), or conducts himself in a manner that may be in contempt of the Board or its proceedings, the Board may apply to the Court of Queen's Bench for an order directing compliance with the Board's order, or restraining any conduct found by the Court to be in contempt of the Board or its proceedings.

(4) On an application under subsection (3), the Court of Queen's Bench may grant any order that, in the opinion of the Court, is necessary to enable the Board to carry out its duties.

(5) 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.

(6) 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 or his opposition to the trade union to be the bargaining agent on his behalf.

Conduct of votes **127(1)** For the purposes of this Part, the Board may require, conduct or supervise votes by secret ballot.

(2) 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, and

(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 employees 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.

(3) For the purpose of any vote required, conducted or supervised by the Board, the Board may do all or any of the following:

(a) make rules, including rules with respect to

(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, and

(v) the disposal of ballots;

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

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

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

(e) require an employer to place a suitable portion of his premises or the premises where employees are working at the disposal of the Board for the purpose of taking a vote;

(f) 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.

(4) The Board may delegate its powers under subsection (3)(b), (c), (d), (e) or (f) to a labour relations officer or to the Chairman or a vice-chairman.

Applications
to the Board

128(1) An employer, employers' organization, employee, trade union or other interested person may make a complaint in writing to the Board that there has been or is a failure to comply with any provision of this Part that is specified in the complaint.

(2) When a difference exists concerning the application or operation of this Part, a party to the difference may refer the difference to the Board.

(3) When a complaint is made under subsection (1), a reference is made under subsection (2) or any other application to the Board is made under this Part, the Board may do 1 or more of the following:

(a) appoint a labour relations officer to inquire into the complaint, reference or application, and endeavour to effect a settlement, within a reasonable time;

(b) refer the matter to a member of the board or to 3 members of the Board pursuant to section 123(9);

(c) decide the matter itself after any hearings or inquiries that it considers necessary;

(d) where the matter in issue is properly the subject of collective agreement arbitration, or some other proceeding authorized by statute, decline to proceed with the matter or proceed on any terms that the Board considers just;

(e) where the Board is of the opinion that the matter is without merit, or frivolous, trivial or vexatious, reject the matter summarily.

(4) The Board's powers under subsection (3)(a) and (b) may be delegated to the Chairman, a vice-chairman, or a labour relations officer designated by the Board.

(5) The Board shall give notice to any party that, in the opinion of the Board, may be affected by a complaint, application or reference filed with the Board.

(6) The Board may permit an amendment to a complaint, application or reference at any stage in its proceedings subject to the rights of affected parties to make any representations and defences that may be necessitated by the amendment.

(7) When the Board decides an application or reference, it may by order or directive give any remedy that is appropriate to the matter or necessary to ensure compliance with and enforcement of this Act.

Remedies

129 When the Board is satisfied after an inquiry that an employer, employers' organization, employee, trade union or any other person has failed to comply with any provision of this Part that is specified in a complaint, the Board may issue a directive to rectify the act in respect of which the complaint is made and without restricting the generality of the foregoing

(a) may issue a directive or interim 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;

(b) may issue a directive to require the employer, employers' organization, employee, trade union or other person

(i) to reinstate any employee suspended or discharged contrary to this Part;

(ii) to pay to an employee or former employee suspended or discharged contrary to this Part 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 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 this Part;

(v) to pay to an employee in respect of a failure to comply with section 262 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;

(vi) with respect to a failure to comply with section 175

(A) may 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 conditions under which collective bargaining is to take place;

(vii) in respect to a failure to comply with section 141(1)(e), extend the time for the taking of any step in the grievance procedure under a collective agreement, notwithstanding the expiration of that time, subject to any conditions that the

Board may prescribe, if the Board is satisfied that there are reasonable grounds for the extension and that the employer will not be substantially prejudiced by the extension;

- (c) may, notwithstanding anything in this Act,
 - (i) certify or refuse to certify a trade union as the bargaining agent for a unit of employees;
 - (ii) revoke or refuse to revoke the certification of a bargaining agent;
 - (iii) revoke or refuse to revoke the rights of a bargaining agent voluntarily recognized;
 - (iv) register or refuse to register an employers' organization as an agent for collective bargaining on behalf of employers in a trade jurisdiction and territory in the construction industry;
 - (v) cancel or refuse to cancel the registration certificate of a registered employers' organization.

Board orders, etc. **130**(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 on it a certificate purporting to be signed by a labour relations officer 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 labour relations officer.

(4) 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.

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

(6) If any directive or order made by the Board 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 or order, file a copy of the order or directive with the clerk of the Court of Queen's Bench and thereupon the directive is enforceable as a judgment or order of the Court.

Judicial review

131(1) Subject to subsection (2), 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, declaration, judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the Board or any of its proceedings.

(2) 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 of Queen's Bench and served on the Board no later than 30 days after the date of the proceeding, decision, order, directive, declaration or ruling or reasons in respect thereof, whichever is later.

(3) The Court may, in respect of any appeal under subsection (2),

- (a) determine the issues to be resolved on the appeal,
- (b) limit the contents of the return from the Board to those materials necessary for the disposition of those issues, and
- (c) give directions to protect the confidentiality of the matters referred to in section 126(6).

(4) Notwithstanding subsection (2), no decision of the Board under section 123(9) shall be appealed to the Court of Queen's Bench unless that decision has first been appealed to the Board under section 123(10).

Division 2

Employee and Employer Rights

Rights of employees and employers

132(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.

Discrimination, etc.

133 No employer or trade union or any person acting on their behalf shall 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

- (a) 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 Part,

(b) 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 Part, or

(c) has made an application or filed a complaint under this Part.

Right of dismissed employee

134 No person ceases to be an employee within the meaning of this Part by reason only of his dismissal contrary to this Part.

Division 3 Trade Unions

Filing of constitution, etc., of trade union

135(1) In accordance with the rules and procedures established by the Board, a trade union shall file with the Board

(a) a copy of its constitution, by-laws or other constitutional documents, and

(b) the names and addresses of its president, secretary, officers and other organizers and the names of its officers who are authorized to sign collective agreements.

(2) The trade union shall send to the Board any changes to the information supplied under subsection (1) as soon as possible after the change is made.

Capacity of trade union

136(1) For the purposes of this Part, 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 1 or more of its objects or purposes are in restraint of trade.

Suspension or expulsion from trade union

137 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, and

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

Deduction of union dues

138(1) An employee may, in writing, authorize his employer 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 1 months' 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 is 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.

Fees for temporary card

139 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.

Employees to be union members

140(1) Subject to subsection (2), nothing in this Part 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 of 1 or more employers represented by the employers' organization are required to be members of a trade union.

(2) If the Board is satisfied that an employee because of his religious conviction or belief

(a) objects to joining a trade union, or

(b) objects to the paying of dues or other assessments to a trade union,

the Board may order that the provisions of a collective agreement of the type referred to in subsection (1) do not apply to the employee and that the employee is not required to join the trade union, to be or continue to be a member of the trade union, or to pay any dues, fees or assessments to the trade union, if amounts equal to any initiation fees, dues or other assessments are paid by the employee to or are remitted by the employer to a charitable organization mutually agreed on by the employee and the trade union.

(3) If the employee and the trade union fail to agree on a charitable institution for the purpose of subsection (2), the Board may designate

a charitable organization registered as a charitable organization in Canada under Part I of the *Income Tax Act* (Canada) to which the amounts referred to in that subsection must be paid.

141(1) No trade union and no person acting on behalf of a trade union shall

(a) 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;

(b) 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;

(c) expel or suspend a person from membership in the trade union or deny membership in the trade union to a person by applying to him in a discriminatory manner the membership rules of the trade union;

(d) 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;

(e) deny an employee or former employee who is or was within the bargaining unit the right to be fairly represented by the trade union with respect to his rights under the collective agreement;

(f) 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 Part;

(g) 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 reasonable alternate employment available to that person within a reasonable time 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 Part.

(2) The Board has no jurisdiction to hear a complaint made under subsection (1)(c) or (d) 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 to a reasonable appeal procedure.

(4) When a complaint is made in respect of an alleged denial of fair representation by a trade union in accordance with subsection (1)(e), the Board shall not issue a directive under Division 1 if the trade union establishes to the satisfaction of the Board that the trade union's decision with respect to the employee's rights arising out of the collective agreement was made in good faith.

Division 4

Employers' Organizations

Capacity of employers' organization

142 For the purposes of this Part, an employers' organization is capable of

(a) prosecuting and being prosecuted, and

(b) suing and being sued.

Division 5

Certification

Applications for certification

143 A trade union may apply to the Board to be certified as the bargaining agent of the employees in a unit that the trade union considers appropriate for collective bargaining.

Evidence in support of application for certification

144 An application for certification shall be supported by evidence, in a form satisfactory to the Board, that

(a) at least 40% of the employees in the unit applied for have indicated their support for the trade union by

(i) maintaining membership in good standing in the trade union, or

(ii) applying for membership in the trade union and paying 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

(b) at least 40% of the employees in the unit applied for have indicated in writing their selection of the trade union to be the bargaining agent on their behalf.

Inquiry into certification application

145(1) Before granting an application for certification the Board shall satisfy itself, after such investigation as it considers necessary, that

(a) the applicant is a trade union,

- (b) the application is timely,
- (c) the unit applied for, or a unit reasonably similar thereto, is an appropriate unit for collective bargaining,
- (d) the employees in the unit the Board considers an appropriate unit for collective bargaining have voted, at a representation vote conducted by the Board, to select the union as their bargaining agent, and
- (e) the application is not prohibited by section 150.

(2) Before conducting a representation vote the Board shall satisfy itself, on the basis of the evidence submitted in support of the application and the Board's investigation in respect of that evidence, that at the time of the application for certification the union had the support, in the form set out in section 144(a) or (b), of at least 40% of the employees in the unit set out in the application for certification.

(3) The Board shall conduct any representation vote and shall complete its inquiries into and consideration of an application for certification as soon as possible.

Joint application
by trade unions

146(1) Two or more trade unions that together claim to have been selected by at least 40% of the 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 in accordance with subsection (1), this Division 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 1 trade union.

Timeliness of
application for
certification

147(1) No application for certification shall be made without the Board's consent

- (a) until at least 60 days after the applicant has complied with section 135(1), or
- (b) while a strike or lockout is in effect.

(2) An application for certification may be made,

- (a) if no collective agreement or certification of a bargaining agent is in effect in respect of any employees in the unit, at any time,
- (b) if 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, unless a collective agreement has been entered into by 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 of Queen's Bench, 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 agreement, or

(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.

Appropriate unit **148(1)** In processing an application for certification, the Board may

(a) accept the unit applied for as an appropriate unit for collective bargaining,

(b) alter or amend the description of the unit applied for,

(c) include or exclude employees from the unit applied for, or as altered or amended, or

(d) do any other things it considers appropriate,

if

(e) the unit of employees on which any certificate is based is, in the opinion of the Board, an appropriate unit for collective bargaining, and

(f) any altered or amended unit is, in the opinion of the Board, reasonably similar to the unit originally claimed by the trade union to be appropriate for collective bargaining.

(2) Certifications for firefighters shall be granted on the basis that all the firefighters of an employer who hold the rank of captain or equivalent and higher shall be included in a separate bargaining unit and be represented by a separate bargaining agent from the firefighters of that employer holding ranks lower than that of captain.

(3) The Board may establish policies or guidelines in respect of the appropriateness of bargaining units and the Board may vary those policies or guidelines as the Board considers necessary in any specific case.

Representation vote **149(1)** A representation vote shall be decided on the basis of a majority of the ballots cast by employees in the bargaining unit.

(2) For the purposes of assessing union support on the date of a certification application, or for the purposes of conducting any representation vote, the Board may deem a person to be an employee on a given date where in the Board's opinion it is appropriate to do so, notwithstanding that the person had not become, or had ceased to be, an employee on that date.

Prohibitions on certification **150(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

(b) influenced by an employer so that the trade union'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, picketing of the place of employment of the employees affected or elsewhere directly resulted in

(a) employees becoming members of the trade union,

(b) employees applying for membership in the trade union, or

(c) employees indicating in writing their selection of the trade union to be the bargaining agent on their behalf.

Certification

151 When the Board is satisfied with respect to the matters referred to in section 145(1) and satisfied, after considering any other relevant matter, that the trade union should be certified, the Board shall grant a certificate to the applicant trade union naming the employer and describing the unit in respect of which the trade union is certified as bargaining agent.

Effect of certification

152(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 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.

(4) Subsection (3) does not apply to a trade union that becomes certified for a unit in respect of which it was already bound by a collective agreement negotiated as a result of collective bargaining voluntarily engaged in.

Consolidation of certificates

153(1) One or more certified bargaining agents may apply to the Board for the consolidation of certificates of 1 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 or agents,

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

(c) describing the unit in respect of which the trade union or trade unions are certified as bargaining agent or agents.

(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.

Division 6

Voluntary Recognition

Voluntary
recognition

154 Subject to the other provisions of this Part, an employer has the right to bargain collectively with a voluntarily recognized trade union acting on behalf of his employees or a unit of them.

Collective
bargaining with
voluntarily
recognized trade
union

155(1) An employer who is a party to or bound by a collective agreement entered into as a result of voluntary collective bargaining, if served with a notice to bargain collectively with a trade union in accordance with section 172(2), may not refuse to bargain collectively in accordance with the notice unless, at least 6 months prior to the expiry date set out in the collective agreement, the employer served the trade union with notice of its intention to terminate its recognition of the trade union and refuse to bargain collectively.

(2) If a trade union receives a notice under subsection (1), the trade union may apply to the Board to become certified for the unit to which the notice relates, notwithstanding section 147(2)(d) or (e).

Certification
of voluntarily
recognized trade
union

156 Where a trade union

(a) is the certified bargaining agent on behalf of a unit of employees,

(b) has bargained a collective agreement on behalf of any other employees of the same employer, and

(c) is served with a notice pursuant to section 155 in respect of those employees

the trade union may apply to the Board to vary the original certificate, and on receipt of the application, and after conducting such votes and inquiries as the Board considers necessary, the Board may vary or decline to vary the certificate in question.

Division 7

Modification of Bargaining Rights

Modification of certification of a bargaining agent

157 The Board may, on the application of any trade union or employer affected, modify the description of a bargaining unit contained in any certificate if it is satisfied that

- (a) the former certificate no longer appropriately describes the circumstances of collective bargaining between the parties,
- (b) the modification is not such as may call into question the union's majority support within the bargaining unit, and
- (c) it is otherwise appropriate to make the modification.

Effect of sale of business

158(1) When a business, undertaking or part of it is sold, leased, transferred or merged with another business, undertaking or part of it or otherwise disposed of so that the control, management or supervision of it passes to the purchaser, lessee, transferee or person acquiring it, that purchaser, lessee, transferee or person is, where there have been proceedings under this Part, bound by those proceedings and the proceedings shall continue as if no change had occurred, and

- (a) if a trade union is certified, the certification remains in effect and applies to the purchaser, lessee, transferee or person acquiring the business, undertaking or part of it, and
- (b) if a collective agreement is in force, the collective agreement continues to bind the purchaser, lessee, transferee or person acquiring the business, undertaking or part of it as if the collective agreement had been signed by him.

(2) Where a question arises under this section, the Board, on the application of any employer, trade union or person affected, may determine what rights, privileges and duties have been acquired or retained and the Board may, for that purpose, make any inquiries and direct the taking of any votes that it considers necessary and decide any questions arising under this section, and

- (a) the Board may determine and declare which trade union or trade unions shall be the bargaining agent or agents for a unit or units of employees of the purchaser, lessee, transferee or person acquiring the business, undertaking or part of it,
- (b) if a trade union or trade unions are certified with respect to the business, undertaking or part of it, or with respect to the purchaser, lessee, transferee or person acquiring the business, undertaking or part of it, the Board may amend or revoke any certificate and determine and declare that 1 or more certificates or certificates as amended are in effect or remain in effect and apply or will apply to the purchaser, lessee, transferee or person acquiring the business, undertaking or part of it,
- (c) if 1 or more collective agreements are in force with respect to the business, undertaking or part of it, or with respect to the purchaser, lessee, transferee or person acquiring the business, undertaking or part of it, the Board may cancel any of those agree-

ments or amend any of those agreements with respect to the employees covered by the agreement and determine and declare that 1 or more collective agreements or collective agreements as amended are in effect or remain in effect and bind or will continue to bind the purchaser, lessee, transferee or person acquiring the business, undertaking or part of it, and

(d) if there are proceedings under the Act before the date of sale, lease, transfer or other disposition of the business, undertaking or part of it, the Board may determine and declare whether those proceedings are binding on or the extent to which those proceedings are binding on the purchaser, lessee, transferee or person acquiring the business, undertaking or part of it.

Spin-offs

159 If, on the application of a trade union, the Board considers that associated or related activities or businesses, undertakings or other activities are carried on under common control or direction by or through more than 1 corporation, partnership, person or association of persons, the Board may declare the corporations, partnerships, persons or associations of persons to be 1 employer for the purposes of this Part.

Governing bodies

160(1) In this section, “governing body” means

- (a) a city, town, new town, village or summer 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 *Hospitals Act*, or
- (e) the owner or operator of a non-district hospital as defined in the *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 governing body or trade union affected

- (a) declare which governing body is bound by proceedings under this Part,
- (b) determine whether the employees concerned constitute 1 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.

Successor
trade union

161(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 Part 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 8

Termination of Bargaining Rights

Definition

162 In this Division, “bargaining rights” means those rights held by a trade union with respect to a unit of employees of an employer,

(a) arising out of a certification granted by the Board, or

(b) arising as a result of the employer’s having voluntarily entered into a collective agreement with the trade union, and any subsisting obligation to bargain with the trade union arising as a result of any notice to bargain given pursuant to this Part or the collective agreement, unless the employer has given notice of its intention not to bargain pursuant to section 155(1), and only in so far as the dispute arising out of any notice to bargain continues.

Application for
revocation of
bargaining rights

163(1) An application to revoke bargaining rights may be made by the trade union, the employees within the unit, or the employer or former employer to whom the bargaining rights relate.

(2) If an application for revocation of bargaining rights is made by the employees within the unit, the application shall be supported by evidence, in a form satisfactory to the Board, that at least 40% of the employees within the unit have indicated in writing their support for the revocation of the bargaining rights of the trade union.

Timeliness of
application for
revocation

164(1) No application for revocation of bargaining rights shall be made without the Board’s consent while a strike or lockout is in effect.

(2) An application for revocation of bargaining rights may be made by the trade union at any time when there is no collective agreement in effect.

(3) An application for revocation of bargaining rights may be made by the employees in the unit

(a) if no collective agreement is in force 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 trade union, and at any time if the trade union is not certified,

(b) if the certification of a bargaining agent in respect of any of the employees in the unit is questioned or reviewed by the Court of Appeal, 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 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 agreement, or

(d) 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) An application for revocation of bargaining rights may be made by an employer or former employer only if the employer or former employer and the certified bargaining agent have not bargained collectively for a period of 3 years

(a) after the date of certification, if no collective agreement has been entered into affecting the employer or former employer and a certified bargaining agent, or

(b) after the first date fixed for the termination of the collective agreement, if a collective agreement has been entered into affecting the employer or former employer and the trade union.

Inquiry into
revocation
application

165(1) Before granting an application for revocation the Board shall satisfy itself, after such investigation as it considers necessary, that

(a) the application is timely,

(b) in the case of an application by an employer or by the employees in the unit, the employees have voted, at a representation vote conducted by the Board, in favour of the revocation of bargaining rights of the union as their bargaining agent,

(c) in the case of an application by a former employer

(i) the bargaining agent has abandoned its bargaining rights,
or

(ii) there have been no employees in the unit represented by the trade union for a period of at least 3 years.

(2) Before conducting a representation vote on an application for revocation brought by employees the Board shall satisfy itself, on the basis of the evidence submitted in support of the application and the Board's investigation in respect of that evidence, that at the time of the application for revocation 40% of the employees within the unit supported the application for revocation.

(3) The Board shall conduct any representation vote and shall complete its inquiries into and consideration of an application for revocation of bargaining rights as soon as possible.

Representation
vote

166(1) A representation vote shall be decided on the basis of a majority of the ballots cast by employees in the bargaining unit.

(2) For the purposes of assessing support for the revocation on the date of an application, or for the purposes of conducting any representation vote, the Board may deem a person to be an employee on a given date where in the Board's opinion it is appropriate to do so, notwithstanding that the person had not become, or had ceased to be, an employee on that date.

Revocation of
bargaining rights

167(1) When the Board is satisfied with respect to the matters referred to in section 165(1) and satisfied, after considering any other relevant matter, that the bargaining rights the trade union should be revoked, the Board shall grant a declaration that the trade union's bargaining rights are revoked, and revoke any certification.

(2) When the bargaining rights of a trade union are revoked,

(a) the employer is not required to bargain collectively with the trade union,

(b) any collective agreement in effect at the time of the revocation becomes void and of no effect with respect to that employer and his employees in the unit represented by that trade union, and

(c) the trade union shall not negotiate or enter into a collective agreement or apply for certification for the same or substantially the same unit with the employer to whom the bargaining rights relate for a period of 6 months from the date of the revocation of the bargaining rights.

Revocation
without
application

168(1) Notwithstanding sections 165 to 167(1), the Board may at any time give notice of its intention to revoke the bargaining rights of a trade union to the trade union and the employer or employers' organization affected by the proposed revocation.

(2) If the Board receives an objection to the proposed revocation of bargaining rights within 60 days of giving the notification referred to in subsection (1), it shall not revoke the bargaining rights pursuant to the notice.

(3) The Board may make rules governing the form of notice to be given under this section, including, in cases where the Board has

reason to believe the trade union, employer or employers' organization are no longer in existence, dispensing with notice.

Division 9

General Provisions on Certification and Voluntary Recognition

Continuation of collective agreement not a bar to certain applications

169 When notice to commence collective bargaining has been served by either party to a collective agreement and by operation of law or by agreement of the parties the agreement continues beyond the date fixed for the termination of the agreement, the 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.

Overriding provision concerning application

170 Notwithstanding anything in this Part, 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,

has been refused by the Board or withdrawn by the applicant, 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 withdrawal or refusal.

Division 10

Collective Bargaining

Service during collective bargaining

171(1) Subject to the other provisions of this Part and any rules made by the Board under section 124(2)(f), anything that is required or permitted to be served during the course of collective bargaining shall be deemed to be properly served if it is 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 18 years old, or
 - (ii) by sending it to him by registered or certified mail at his last known postal address;
- (b) in the case of a corporation,
 - (i) personally on a director, manager or officer of the corporation or by leaving it for him at his address with some person who is apparently at least 18 years old, 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 employers' organization,

(i) personally on the president, secretary or an officer of the trade union or employers' organization or by leaving it at his address with some person who is apparently at least 18 years old, 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 employers' organization;

(d) in the case of an employer, employers' organization or trade union that is represented by a bargaining committee,

(i) personally on the chairman or any member of the bargaining committee or by leaving it at his address with a person who is apparently at least 18 years old, or

(ii) by sending it by registered or certified mail to the address of the chairman or any member of the bargaining committee.

(2) Service on the chairman or a member of the bargaining committee of an employer or employers' organization is also good service on the employers represented by that bargaining committee.

(3) Service on the chairman or a member of the bargaining committee of a trade union is also good service on the employees represented by that bargaining committee.

(4) If it is necessary to prove service of anything under this section,

(a) if service is effected personally, the 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 occurred 7 days after the date of mailing, and

(c) if service is effected by leaving it with a person, service of it shall be deemed to have been made on the date it was so left.

Notice to
commence
collective
bargaining

172(1) When a certified bargaining agent, an employer or an employers' organization wishes to commence collective bargaining,

(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 60 days and not more than 120 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.

Representatives
and proposals for
collective
bargaining

173(1) When an employer, employers' organization or trade union serves notice to commence collective bargaining, the notice must also contain or be accompanied by a statement showing the name of the person or persons resident in Alberta, and their alternates, who are authorized to do all of the following on behalf of the employer, employers' organization or trade union:

- (a) bargain collectively;
- (b) conclude a collective agreement;
- (c) sign a collective agreement.

(2) The persons authorized to do the things referred to in subsection (1) on behalf of an employers' organization or trade union shall include representation from the employers or the local trade union, as the case may be, on whose behalf the negotiations are being conducted.

(3) When an employer, employers' organization or trade union is served with a notice to commence collective bargaining, it shall forthwith serve on the other party to the collective bargaining a statement showing the name of the person or persons resident in Alberta who are authorized to do the things referred to in subsection (1) on behalf of the employer, employers' organization or trade union.

(4) If the authority of a person or group of persons named in a statement under subsection (1) or (3) is subject to any ratification procedure required by the employer, employers' organization or trade union, the statement shall also contain a notification of that ratification procedure.

(5) The ratification procedure referred to in subsection (4) shall not be changed without the consent, in writing, of the other party to the negotiations.

(6) On the request of the Director of Mediation Services or a mediator, the employer, employers' organization or trade union shall provide the Director of Mediation Services or the mediator, as the case may be, with the name and address of the person or persons who are authorized to do the things referred to in subsection (1) and notification of any ratification procedures required by the employer, employers' organization or trade union, as the case may be.

Authorization
of employers'
organization

174(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, and
- (b) a copy of each authorization given by the employers.

(2) When an employers' organization that is not a registered employers' organization is served with a notice to commence collective

bargaining, it shall forthwith serve on the bargaining agent the lists and authorizations referred to in subsection (1).

(3) An employers' organization shall file a copy of the lists and authorizations served under subsection (1) or (2) with the Director of Mediation Services forthwith after it serves or is served with a notice to commence collective bargaining.

(4) On service of the lists and authorizations in accordance with subsection (1) or (2), as the case may be, the employers' organization 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 forthwith on the bargaining agent and the Director of Mediation Services.

(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,

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

(c) if Division 14 applies to the employer, the compulsory arbitration board has made its award under that Division,

whichever first occurs.

Commencement
of bargaining

175(1) When a notice to commence collective bargaining has been served under this Division, the bargaining agent and the employer or employers' organization, not less than 10 days and not more than 30 days after notice is served, shall

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

(b) exchange detailed proposals in writing in relation to each matter in dispute including particulars of each proposal, and

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

(2) No additional proposals shall be added after the exchange of proposals under subsection (1) unless

(a) the proposals relate to matters that were in dispute at the time that proposals were exchanged under subsection (1), or

(b) the other party consents to the addition.

Vote on bargaining proposals

(3) 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 this Division, shall refuse or fail to comply with subsections (1) and (2).

176(1) At any time after the exchange of proposals under section 175, either party to the collective bargaining may apply to the Board to supervise a vote as to the acceptance or rejection of its most recent proposals by the other party.

(2) If a party applies to the Board under subsection (1), the Board shall, if it is satisfied that the proposals, if accepted, could form the basis for a collective agreement,

(a) in the case where the other party is a bargaining agent, supervise a vote on the acceptance or rejection of the bargaining proposals by employees of the employer affected by the dispute,

(b) in the case where the other party is an employers' organization, supervise a vote on the acceptance or rejection of the bargaining proposals by the employers affected by the dispute who are represented by the employers' organization, and

(c) in the case where the other party is a single employer, poll the employer on his acceptance or rejection of the bargaining proposals.

(3) When the Board polls an employer or supervises a vote under subsection (2), it shall do so as soon as practicable and shall notify the parties to the dispute of the results of the vote or poll on its conclusion.

(4) If an employer who is polled or a majority of those employees or employers who vote under this section are in favour of accepting the bargaining proposals, the proposals are binding on the parties and shall be included in the terms of a collective agreement.

(5) Notwithstanding subsection (4), if the ratification procedure referred to in section 173(4) for an employers' organization requires ratification by the employers on a weighted vote system, a vote for acceptance or rejection of bargaining proposals by the employers shall be determined on the basis of that weighted vote system.

(6) Each party is entitled to apply for a vote under this section only once during negotiations for a collective agreement.

Division 11

Mediation and Enhanced Mediation

Appointment
of mediator

177(1) Any time after a notice to commence collective bargaining is served under section 172, either or both parties to a dispute may request the Director of Mediation Services to appoint a mediator to assist the parties in resolving the dispute.

(2) A mediator appointed under subsection (1) shall in any manner that he considers fit assist the parties in resolving the dispute.

Enhanced
mediation

178(1) If a new collective agreement is not concluded after 60 days from the day on which bargaining proposals were exchanged under section 175,

(a) either or both parties to the dispute may request the Director of Mediation Services to appoint a mediator, or

(b) the Minister may require the Director of Mediation Services to appoint a mediator

to conduct enhanced mediation by inquiring into the dispute and endeavouring to effect a settlement in accordance with subsections (4) and (5).

(2) The Director of Mediation Services

(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).

(3) If a mediator has been appointed under section 177 with respect to the dispute, the Director of Mediation Services may reappoint that mediator as the mediator under this section.

(4) During the inquiry the mediator shall, in any manner he sees fit,

(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.

(5) The mediator shall within 14 days from the day on which he is appointed under subsection (2) or reappointed under subsection (3) or any longer period agreed to by the parties to the dispute or fixed by the Director of Mediation Services

(a) recommend terms for settlement to the parties,

(b) recommend that a mediation board be appointed, or

(c) notify the parties that he does not intend to make a recommendation under clause (a) or (b).

Appointment of mediation board **179** If a mediator recommends that a mediation board be appointed, the Minister,

(a) if he considers it appropriate, may direct the parties to continue collective bargaining and may prescribe the conditions under which collective bargaining is to take place, or

(b) if he is satisfied that the dispute is appropriate to refer to a mediation board, may direct the parties to the dispute to appoint a mediation board in accordance with Division 17.

Recommendations of mediation board **180(1)** If a mediation board is unable to effect a settlement of a dispute within

(a) 20 days of the date on which it is established, or

(b) any longer time that may be agreed to by the parties to the dispute or fixed by the Minister,

the mediation board shall make recommendations with respect to each matter in dispute and send them to the parties and the Minister.

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

Collective agreement after recommendations **181(1)** If the parties to a dispute accept the recommendations of a mediator under section 178(5)(a) or a mediation board under section 180, the recommendations are binding on the parties and shall be included in the terms of a collective agreement.

(2) Unless a party to the dispute notifies the mediator of its acceptance of the recommendations of the mediator or the Minister of its acceptance of the recommendations of the mediation board, within 10 days after being served with a copy of the recommendations or, if the Minister has made a request under section 182, within 10 days after being served with a notification under that section, the Board shall,

(a) in the case where the party is a bargaining agent, supervise a vote on the acceptance or rejection of the recommendations by the employees affected by the dispute who are represented by the bargaining agent,

(b) in the case where the party is an employers' organization, supervise a vote on the acceptance or rejection of the recommendations by the employers affected by the dispute who are represented by the employers' organization, and

(c) in the case where the party is an employer, poll the employer on his acceptance or rejection of the recommendations.

(3) When the Board polls an employer or supervises a vote under subsection (2), it shall forthwith notify the parties to the dispute of the results of the vote or poll on its conclusion.

(4) If an employer who is polled or a majority of those employees or employers who vote under this section and the other party to the dispute are in favour of accepting the recommendations of the mediator or the mediation board, the recommendations are binding on

the parties and shall be included in the terms of a collective agreement.

(5) Notwithstanding subsection (4), if the ratification procedure referred to in section 173(4) for an employers' organization requires ratification by the employers on a weighted vote system, a vote for acceptance or rejection of the recommendations of the mediator or the mediation board by the employers shall be determined on the basis of that weighted vote system.

Questions on
recommendations

182(1) If a question arises concerning the recommendations of a mediator or a mediation board, the Minister, at the request of the parties, may

- (a) request the mediator to consider and decide the question, or
- (b) request the chairman of the mediation board to reconvene the board to consider and decide the question.

(2) The mediator or mediation board shall notify the parties and the Minister of the decision under subsection (1).

(3) A decision under subsection (2) has the same effect as a recommendation under section 178(5)(a) or 180(1), as the case may be.

One mediation
board appointed
per dispute

183 Not more than 1 mediation board may be appointed for 1 dispute between an employer or employers' organization and bargaining agent.

Division 12

Strikes and Lockouts

Application
to Board to
supervise strike
or lockout vote

184(1) If a mediator has been appointed under section 178 with respect to a dispute and

- (a) the mediator recommended terms of settlement that either of the parties rejected,
- (b) the mediator recommended that a mediation board be appointed and the parties rejected the recommendations of the board, or
- (c) the mediator notified the parties that he does not intend to make either of the recommendations referred to in clauses (a) and (b),

a bargaining agent that is a party to the dispute may apply to the Board to supervise a strike vote, or an employer or an employers' organization that is a party to the dispute may apply to the Board to supervise a lockout vote.

(2) No application under subsection (1) shall be made until at least 14 days after the date on which the applicant is notified

- (a) of the results of a vote referred to in section 181,
- (b) that the mediator does not intend to make either of the recommendations referred to in subsection (1)(a) and (b), or

(c) that the Minister has decided not to appoint a mediation board.

(3) No application shall be made under subsection (1) until at least 90 days from the date on which the applicant is notified of the results of any previous strike vote or lockout vote, as the case may be.

Supervision of
strike or lockout
vote

185(1) On receipt of an application under section 184 to supervise a strike vote, the Board shall,

(a) if the bargaining agent is in dispute with a single employer, forthwith supervise a vote of the employees of the employer affected by the dispute, or

(b) if the bargaining agent is in dispute with an employers' organization, forthwith 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 184 to supervise a lockout vote, the Board shall

(a) in the case of a single employer, forthwith poll the employer, and

(b) in the case of an employers' organization, forthwith supervise a vote of those employers affected by the dispute

on whether or not the employer or employers' organization wishes to lock out.

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

(4) 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.

(5) In this section,

(a) "employees of the employer affected by the dispute" 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 1, fixed for taking the strike vote;

(b) "employees of the employers affected by the dispute" 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 1, fixed for taking the strike vote;

(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 1, fixed for taking the lockout vote.

Expiry of vote
and right to
strike or lockout

186(1) If no strike or lockout occurs within 90 days of the day on which the strike vote or lockout vote was conducted, the strike or lockout vote shall be deemed to be void and no person shall strike or lockout or cause a strike or lockout unless a new strike vote or lockout vote is conducted in accordance with this Division.

(2) Notwithstanding subsection (1), no strike or lockout vote may be taken after the expiry of 2 years from the end of the 14-day period referred to in section 184(2).

(3) If a strike or lockout vote is prohibited under subsection (2), the dispute shall be deemed to no longer exist.

Service of strike
or lockout notice

187(1) If a strike vote results in a majority of employees voting 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, time and location the strike will commence, and

(b) forthwith after service of the notice referred to in clause (a), notifies the mediator appointed under section 178, giving him notice of the date, time and location 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 lock out 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, time and location the lockout will commence, and

(b) forthwith after service of the notice referred to in clause (a), notifies the mediator appointed under section 178, giving him notice of the date, time and location 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 results of the strike vote or lockout vote, as the case may be, has been filed with the Board.

Strike or lockout
notice extended
by agreement

188(1) If the parties to a dispute agree in writing to do so, a strike notice or a lockout notice may be amended 1 or more times after it has been served by changing the date, time or location specified for the commencement of the strike or lockout.

(2) The mediator who was notified under section 187 shall be forthwith notified of any amendment to the strike notice or the lockout notice.

Strike or lockout
notice becomes
ineffective

189 If a strike or lockout does not or is not permitted to occur

(a) on the date and at the time and location specified in the strike notice or lockout notice, or

(b) if the notice is amended, on the date and at the time and location specified in the amended notice,

the notice becomes ineffective and another notice must be served in accordance with section 187 before the party concerned strikes or locks out or causes a strike or lockout, as the case may be.

Conditions under which strike permitted

190 An employee, bargaining agent or person acting on behalf of a bargaining agent is entitled to strike or cause a strike if

- (a) no collective agreement is in force, other than as a result of section 242,
- (b) a strike vote under this Division resulted in a majority in favour of a strike,
- (c) strike notice is given in accordance with this Division, and
- (d) 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 Division, on the day and at the time specified in the amendment.

Conditions under which lockout by employer permitted

191 An employer is entitled to lock out if

- (a) no collective agreement is in force, other than as a result of section 242,
- (b) a lockout vote under this Division resulted in the employer being in favour of a lockout,
- (c) lockout notice is given in accordance with this Division, and
- (d) 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 Division, on the day and at the time specified in the amendment.

Conditions under which lockout by an employers' organization permitted

192 An employers' organization is entitled to cause a lockout if

- (a) no collective agreement is in force, other than as a result of section 242,
- (b) a lockout vote under this Division resulted in a majority in favour of a lockout,
- (c) lockout notice is given in accordance with this Division, and
- (d) 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 Division, on the day and at the time specified in the amendment.

Settlement of strike affecting employers' organization

193(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 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 1 or more of the employers.

(4) An employer on whose behalf a registered employers' organization bargains collectively and a bargaining agent shall not settle the matters in dispute between them during the 60 days following the date the strike commences.

Settlement of lockout called by employers' organization

194(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) An employer on whose behalf a registered employers' organization bargains collectively and a bargaining agent shall not settle the matters in dispute between them during the 60 days following the date the lockout commences.

Agreement re sections 193 and 194

195(1) If a settlement of a dispute is effected contrary to section 193 or 194, any agreement arising from that settlement is void and of no effect.

(2) A settlement under section 193 or 194 remains in effect until the earlier of

- (a) the revocation of the bargaining rights of a trade union,
- (b) the revocation of the registration certificate of a registered employers' organization,
- (c) the earlier of
 - (i) the expiry of the term specified in the settlement, and
 - (ii) 1 year, if the term is unspecified,

and

- (d) the date on which a collective agreement is signed by a registered employers' organization.

No strike unless permitted

196 No employees, no trade union and no person acting on their behalf, shall strike or cause a strike or threaten to strike or cause a strike unless that strike is permitted by this Part.

No lockout unless permitted

197 No employer, no employers' organization and no person acting on their behalf shall lock out or cause a lockout or threaten to lock out or cause a lockout unless that lockout is permitted by this Part.

Picketing

198(1) When there is a strike or lockout that is permitted under this Part,

- (a) a trade union, members of which are on strike or locked out,

(b) the members of the trade union referred to in clause (a), and

(c) the employees who are on strike or locked out,

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

(d) enter the employer's place of business, operation or employment,

(e) deal in or handle the products of the employer, or

(f) do business with the employer.

(2) For the purpose of subsection (1), a trade union that is a local, branch or other subdivision of a larger trade union includes the larger trade union and its locals, branches and subdivisions.

(3) Except as provided in subsection (1), no trade union or other person shall, in connection with a dispute, 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.

Board powers
over unlawful
strikes

199 Where the Board is satisfied that

(a) a trade union called, authorized or threatened to call or authorize an unlawful strike,

(b) an officer, official or agent of a trade union counselled, procured, supported or encouraged an unlawful strike or threatened an unlawful strike,

(c) employees engaged in or threatened to engage in an unlawful strike, or

(d) any person has done or is threatening to do an act that the person knows or ought to know that, as a probable and reasonable consequence of that act, another person or persons will engage in an unlawful strike,

the Board may, in addition to and without restricting any other powers under this Part, so declare and direct what action, if any, a person, employee, employer, employers' organization, trade union and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or threat of an unlawful strike.

Board powers
over unlawful
lockout

200 Where the Board is satisfied that

(a) an employer or employers' organization called or authorized or threatened to call or authorize an unlawful lockout,

(b) an officer, official or agent of an employer or employers' organization counselled or procured or supported or encouraged an unlawful lockout or threatened an unlawful lockout,

the Board may, in addition to, and without restricting any other powers under this Part, so declare and direct what action, if any, a person, employee, employer, employers' organization, trade union and their officers, officials or agents shall do or refrain from doing with respect to the unlawful lockout or threat of an unlawful lockout.

Effect of directive **201** A directive or interim directive to cease a strike or lockout that is not permitted under this Part, or any directive under section 199 or 200 is binding on the employer, employers' organization, employee, trade union or other person to whom it is directed with respect to the strike or lockout referred to in the directive or interim directive and any future strike or lockout that occurs for the same or substantially the same reason.

Employment continues **202** No person ceases to be an employee within the meaning of this Part by reason only of his ceasing to work as a result of a lockout or a lawful strike.

Reinstatement of employee **203(1)** When a strike or lockout ends
(a) as a result of a settlement,
(b) on the termination of bargaining rights of one of the parties, or
(c) on the expiration of 2 years from the date the strike or lockout commenced,

any employee affected by the dispute, whose employment relationship with the employer has not been otherwise lawfully terminated, is entitled, on request, to resume his employment with the employer in preference to any employee hired by the employer as a replacement employee during the strike or lockout.

(2) Nothing in subsection (1)
(a) prevents the parties to a dispute agreeing on a mechanism for an orderly return to work within a reasonable period after a strike or lockout is over, or
(b) requires an employer to reinstate an employee where
(i) the employer no longer has persons engaged in performing work of the same or a similar nature to work that the employee performed prior to his cessation of work, or
(ii) there has been a suspension or discontinuance for cause of an employer's operations or any part thereof, but, if the employer resumes those operations, the employer shall first reinstate those employees who have requested a resumption of employment.

(3) An employer shall, on the request of any employee returning to work at the end of a strike or lockout, where there is no collective agreement in place, reinstate the employee in his former employment on any terms that the employer and the employee may agree on, and the employer in offering terms of employment shall not discriminate

against the employee by reason of his exercising or having exercised any rights under this Part.

Jurisdiction
of court

204 No court shall grant any injunction or other process that has the effect of restraining a strike or lockout or restraining or limiting picketing in respect of a labour dispute unless

- (a) there is a reasonable likelihood of danger to persons or property,
- (b) resort to the Board is impractical in the circumstances, in which case the court may issue an order to remain effective until such time as the Board is able to determine the matter, or
- (c) the Board has decided the matter and it is found that an order of the Board with respect to the dispute has been contravened.

Injunctions

205(1) Notwithstanding anything in this Part, 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.

Division 13

Voluntary Interest Arbitration

Agreement re
voluntary
arbitration board

206(1) The parties to a dispute may agree in writing to refer the matters in dispute to a 1-member or 3-member voluntary arbitration board, whose decision will be binding.

(2) The parties shall notify the Minister of an agreement under subsection (1).

Voluntary
arbitration board

207 If the parties who have entered into an agreement under section 206 do not appoint a 1-member or 3-member voluntary arbitration board, either party may notify the Minister who shall serve notice on the parties to the dispute directing them to appoint a voluntary arbitration board in accordance with Division 17.

Powers of
voluntary
arbitration board

208(1) If the voluntary arbitration board is unable to effect a settlement within 20 days after a statement of the dispute is sent to the member of a 1-member board or the chairman of a 3-member board or any longer period that may be agreed between the parties or fixed by the Director of Mediation Services, the voluntary arbitration board shall make an award dealing with all matters in dispute.

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

Division 14

Compulsory Interest Arbitration

Application and
prohibition
against strike
and lockout

209(1) This Division applies to the following:

(a) firefighters and municipalities to the extent that they bargain collectively with those firefighters;

(b) employers who operate approved hospitals as defined in the *Hospitals Act*, and all the employees of those employers.

(2) No employees, trade union, employer or employers' organization to which this Division applies shall strike, lockout, cause a strike or lockout or threaten to cause a strike or lockout.

(3) Sections 178 to 195 and Divisions 12, 13 and 15 do not apply to an employer or employee to which this Division applies.

(4) This Division applies notwithstanding any other provision of this Part.

Request for
compulsory
arbitration board

210(1) If a dispute affecting an employment to which this Division applies cannot be resolved, either or both parties to the dispute may make a request for the appointment of a 1-member or 3-member compulsory arbitration board to

(a) the mediator, if one has been appointed with respect to the dispute, or

(b) the Director of Mediation Services, if no mediator has been appointed with respect to the dispute.

(2) When he receives a request under subsection (1)(b), the Director of Mediation Services shall appoint a mediator in accordance with section 177 and forward the request for the establishment of a compulsory arbitration board to the mediator.

(3) The mediator shall endeavour to effect a settlement and shall, not later than 14 days after he receives a request under subsection (1) or (2),

(a) list the items in dispute and the items that have been settled by the parties, and

(b) forward the list and the request for the appointment of a compulsory arbitration board to the Minister.

Establishment of compulsory arbitration board	<p>211 When he receives a request for the appointment of a compulsory arbitration board, the Minister,</p> <p>(a) if he considers it appropriate, may direct the parties to continue collective bargaining and may prescribe the conditions under which collective bargaining is to take place, or</p> <p>(b) if he is satisfied that the dispute is appropriate to refer to a compulsory arbitration board, may direct the parties to the dispute to appoint a 1-member or 3-member compulsory arbitration board in accordance with Division 17.</p>
Terms of reference	<p>212 When 1 person is appointed to act as the member of a 1-member compulsory arbitration board or 3 persons are appointed to act as members of a 3-member compulsory arbitration board, the Minister, by notice in writing to the member or chairman, as the case may be, shall forward a list of the items in dispute to be resolved by the compulsory arbitration board.</p>
Methods of arbitration	<p>213(1) On receipt of the list under section 212, if the compulsory arbitration board is unable to effect a settlement, it shall consider the position of the parties on each item in dispute and determine what method or combination of methods of arbitration shall be implemented to resolve any or all of the items in dispute.</p> <p>(2) Without restricting the generality of subsection (2), the method or combination of methods of arbitration determined under that subsection may include the method of arbitration known as “final offer selection”.</p>
Matters to be considered	<p>214 To ensure that wages and benefits are fair and reasonable to the employees and employer and are in the best interest of the public, the compulsory arbitration board</p> <p>(a) shall consider, for the period with respect to which the award will apply, the following:</p> <p>(i) wages and benefits in private and public, and unionized and non-unionized employment;</p> <p>(ii) the continuity and stability of private and public employment, including</p> <p>(A) employment levels and incidence of layoffs,</p> <p>(B) incidence of employment at less than normal working hours, and</p> <p>(C) opportunity for employment;</p> <p>(iii) any fiscal policies that may be declared from time to time in writing by the Provincial Treasurer for the purposes of this Part,</p> <p>and</p> <p>(b) may consider, for the period with respect to which the award will apply, the following:</p> <p>(i) the terms and conditions of employment in similar occupations outside the employer’s employment taking into ac-</p>

count any geographic, industrial or other variations that the board considers relevant;

(ii) the need to maintain appropriate relationships in terms and conditions of employment between different classification levels within an occupation and between occupations in the employer's employment;

(iii) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered;

(iv) any other factor that it considers relevant to the matter in dispute.

Award **215(1)** As soon as possible after a dispute is referred to the compulsory arbitration board, and in any case within

(a) 20 days of the date it is established, or

(b) any longer time that may be agreed to by the parties to the dispute or fixed by the Minister,

the compulsory arbitration board shall make an award and in its award shall deal with each item in dispute.

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

Incorporation of award **216(1)** If either of the parties to the dispute neglects or refuses to participate in the preparation of a collective agreement in accordance with the award of the compulsory arbitration board, the other party may prepare the agreement giving effect to

(a) the award of the compulsory arbitration board, and

(b) any other matters that are agreed to by the parties,

and shall submit the agreement to the compulsory arbitration board to certify that the agreement accurately incorporates the award of the compulsory arbitration board.

(2) When a compulsory arbitration board receives a collective agreement under subsection (1) and it is satisfied that the collective agreement gives effect to its award, the compulsory arbitration board shall certify the collective agreement as accurately incorporating its award.

Reconvening of compulsory arbitration board **217(1)** If a question arises concerning the recommendations of a compulsory arbitration board, the Minister, at the request of the parties, may request the chairman of the compulsory arbitration board to reconvene the board to consider and decide the question.

(2) The compulsory arbitration board shall notify the parties and the Minister of its decision under subsection (1).

(3) A decision under subsection (1) has the same effect as an award under section 215.

218(1) If a strike of employees to which this Division applies commences, the employer, notwithstanding any collective agreement or any other provision of this Part, may serve the bargaining agent that represents those employees with a notice of intention to suspend the deduction and remittance of union dues, assessments or other fees payable to the bargaining agent.

(2) A notice of intention under subsection (1) shall specify

(a) the bargaining unit or part of the bargaining unit with respect to which the employer intends to suspend the deduction and remittance of union dues, assessments or other fees, and

(b) a time period of not less than 1 month and not more than 6 months with respect to which the employer intends the suspension to be in effect.

(3) A bargaining agent affected by the notice under subsection (1) may apply to the Board within 72 hours of service of the notice, but not thereafter, for a determination as to whether or not a strike has occurred.

(4) If the bargaining agent does not make an application under subsection (3), the employer may suspend the deduction and remittance of union dues, assessments or other fees in accordance with the notice of intention under subsection (1) at any time after 72 hours from the service of the notice.

(5) If the bargaining agent makes an application under subsection (3), the employer shall not suspend the deduction and remittance of union dues, assessments or other fees unless and until the Board makes a determination under subsection (6)(b) that a strike has occurred.

(6) If the bargaining agent makes an application under subsection (3), the Board may,

(a) if it determines that no strike has occurred, cancel the notice of intention under subsection (1), or

(b) if it determines that a strike has occurred, confirm the notice of intention under subsection (1) and order that the suspension may take place

(i) for the period specified in the notice of intention, or

(ii) for a period of not less than 1 month and not more than 6 months specified by the Board,

and thereupon the employer may suspend the deduction and remittance of union dues, assessments and other fees in accordance with the notice of intention.

(7) Unless sooner revoked by the employer, the suspension under subsection (4) or (6) shall continue

(a) until the end of the period specified in the notice of intention under subsection (1), or

(b) if the Board has specified a period under subsection (6), until the end of that period.

(8) Notwithstanding any collective agreement or any other provision of this Part, an employee does not become ineligible for employment with an employer only because he fails to pay union dues, assessments or other fees, the deduction and remittance of which have been suspended under this section.

(9) At the end of the suspension period as determined under subsection (7) the employer shall resume the deduction and remittance of union dues, assessments and other fees in accordance with the collective agreement, but nothing in this subsection requires the employer to deduct and remit union dues, assessments and other fees with respect to the suspension period.

(10) No provision may be made in a collective agreement in substitution for the suspension of the deduction and remittance of union dues, assessments and other fees under this section.

Division 15 Disputes Inquiry Board

Notice of establishment of disputes inquiry board

219(1) The Minister may appoint a disputes inquiry board in accordance with Division 17 with respect to any dispute that has resulted in a strike or lockout.

(2) The Minister shall serve a notice in writing of the appointment of a disputes inquiry board on the employer or employers' organization and the bargaining agent that are parties to the dispute.

(3) The establishment of the disputes inquiry board does not affect the strike or lockout, or its continuation.

Recommendations of disputes inquiry board

220(1) If a disputes inquiry board is unable to effect a settlement of a dispute within

(a) 20 days of the date on which it is established, or

(b) any longer time that may be agreed to 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 forthwith 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.

Collective agreement after recommendations

221(1) If the parties to a dispute accept the recommendations of a disputes inquiry board, the recommendations are binding on the parties and shall be included in the terms of a collective agreement.

(2) Unless a party to the dispute notifies the Minister of its acceptance of the recommendations of the mediation board within 10 days after being served with a copy of the recommendations or, if the disputes inquiry board has reconvened under section 223, within 10 days after being served with a notification under that section, the Board shall,

(a) in the case where the party is a bargaining agent, supervise a vote on the acceptance or rejection of the recommendations by

the employees affected by the dispute who are represented by the bargaining agent,

(b) in the case where the party is an employers' organization, supervise a vote on the acceptance or rejection of the recommendations by the employers affected by the dispute who are represented by the employers' organization, and

(c) in the case where the party is an employer, poll the employer on his acceptance or rejection of the recommendations.

(3) When the Board supervises a vote under subsection (2), it shall do so as soon as practicable and shall notify the parties to the dispute of the results of the vote upon its conclusion.

(4) If a majority of those employees or employers who vote under this section and the other party to the dispute are in favour of the recommendations of the disputes inquiry board, the recommendations are binding on the parties and shall be included in the terms of a collective agreement.

(5) Notwithstanding subsection (4), if the ratification procedure referred to in section 173(4) for an employers' organization requires ratification by the employers on a weighted vote system, a vote for acceptance or rejection of the recommendations of the disputes inquiry board by the employers shall be determined on the basis of that weighted vote system.

Incorporation
of award

222(1) If either party to the dispute neglects or refuses to participate in the preparation of a collective agreement in accordance with section 221, the other party may prepare an agreement giving effect to

(a) the recommendations of the disputes inquiry board, and

(b) any other matters that are agreed on by the parties,

and shall submit the agreement to the disputes inquiry board for certification that the agreement accurately incorporates its recommendations.

(2) When a disputes inquiry board receives a collective agreement under subsection (1) and is satisfied that it gives effect to its recommendations, the disputes inquiry board shall certify the collective agreement as accurately incorporating the recommendations and the collective agreement is binding.

Questions on
recommendations

223(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 or chairman of the mediation board to reconvene the board to consider and decide the question.

(2) The disputes inquiry board shall notify the parties and the Minister of its decision under subsection (1).

(3) A decision under subsection (1) has the same effect as a recommendation under section 220.

One disputes inquiry board appointed per dispute

224 Not more than 1 disputes inquiry board may be appointed for 1 dispute between an employer or employers' organization and bargaining agent.

Division 16
Emergencies

Emergencies

225(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

(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 Part becomes illegal and an offence under this Part, 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) Notwithstanding anything in this Part, 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.

(7) The *Regulations Act* does not apply to an order or procedure established under this section or section 226.

Public emergency tribunal

226(1) As a procedure or part of a procedure to settle a dispute under section 225, the Minister may establish a public emergency tribunal in accordance with Division 17.

(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, which 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 the parties to the dispute and shall be included in the terms of a collective agreement.

Division 17

Disputes Resolution Tribunals

Appointment of members of mediation board

227(1) If the Minister directs the parties to a dispute to appoint a mediation board, the parties shall each appoint a person to act as a member of the mediation board within 10 days of that notification.

(2) The 2 persons appointed under subsection (1) to act as members of a mediation board shall appoint a 3rd person to act as a member and chairman of the mediation board within 10 days of the date the 2nd person is appointed.

Appointment of members of interest arbitration boards

228(1) If the Minister directs the parties to a dispute to appoint a voluntary arbitration board or a compulsory arbitration board, he shall notify the parties to the dispute in writing accordingly and require them either

(a) to jointly appoint a person to act as a 1-member arbitration board, or

(b) to each appoint a person to act as a member of a 3-member arbitration board

within 10 days of that notification.

(2) The 2 persons appointed under subsection (1)(b) to act as members of an arbitration board shall appoint a 3rd person within 10 days of the date the 2nd person is appointed to act as a member and chairman of the arbitration board.

Appointments by Minister	<p>229(1) If a party to the dispute fails to appoint a person to act as a member of a mediation board, voluntary arbitration board or compulsory arbitration board, the Minister may appoint a person to act as the member.</p> <p>(2) If the 2 persons appointed as members of a mediation or arbitration board under section 227(2) or 228(2) fail to appoint a person to act as a member and chairman, the Minister may appoint a person to act as a member and chairman.</p>
Appointments of members of other boards	<p>230 The Minister may, with respect to a disputes inquiry board or a public emergency tribunal,</p> <p>(a) appoint or provide for the appointment of 1 or more persons as its members, and</p> <p>(b) if more than 1 person is appointed, designate a chairman.</p>
Membership	<p>231(1) The remuneration and expenses of the persons appointed under section 227, 228 or 229 shall be paid,</p> <p>(a) in the case of a person appointed or who should have been appointed individually by a party, by that party, and</p> <p>(b) in the case of the chairman or a person appointed or who should have been appointed jointly by the parties, jointly by the parties.</p> <p>(2) The Minister may prescribe the remuneration and expenses to be paid to members of a disputes inquiry board or a public emergency tribunal.</p> <p>(3) If a vacancy occurs in the membership of a disputes resolution tribunal, a new member or chairman, as the case may be, shall be appointed in the same manner as the original member or chairman was appointed.</p> <p>(4) A judge of the Court of Appeal or of the Court of Queen's Bench may be appointed as the single member or chairman of a disputes resolution tribunal.</p> <p>(5) Except in the case of the chairman or the single member of a disputes resolution tribunal, no person shall be disqualified from acting as a member of a disputes resolution tribunal unless that member is directly affected by the difference or has been involved in an attempt to negotiate or settle the difference.</p>
Referral of other disputes	<p>232 The Minister may, at the same time a mediation board, compulsory arbitration board, disputes inquiry board or a public emergency tribunal is appointed or subsequently, refer to the board or tribunal any other dispute of a similar nature.</p>
Revocation of appointments	<p>233 If in the opinion of the Minister a member of a disputes resolution tribunal is unduly or unnecessarily delaying the proceedings of the tribunal, the Minister may</p> <p>(a) revoke the appointment of the member, and</p> <p>(b) appoint another person in his place.</p>

Meetings	<p>234(1) A disputes resolution tribunal shall meet at the times and places fixed by the single member or chairman of the tribunal.</p> <p>(2) The chairman of a disputes resolution tribunal that has more than 1 member shall notify each member of the board of the time, date and place of each meeting.</p> <p>(3) A disputes resolution tribunal may decide to hold all or any part of a meeting in private.</p>
Proceedings	<p>235(1) A disputes resolution tribunal shall inquire into the matters in dispute and shall endeavour to effect a settlement.</p> <p>(2) A disputes resolution tribunal may determine its own procedure.</p> <p>(3) If a party to proceedings before a disputes resolution tribunal fails to attend or to be represented, the tribunal may proceed as if the party had attended or had been represented.</p>
Majority award	<p>236 An award of a majority of the members of a disputes resolution tribunal is an award of the disputes resolution tribunal, but if there is no majority, the award of the chairman is the award of the disputes resolution tribunal.</p>
Powers of disputes resolution tribunals	<p>237(1) Disputes resolution tribunals</p> <p style="padding-left: 20px;">(a) may accept any oral or written evidence they consider proper, whether admissible in a court of law or not,</p> <p style="padding-left: 20px;">(b) are not bound by the laws of evidence applicable to judicial proceedings, and</p> <p style="padding-left: 20px;">(c) may summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce the documents and things that the tribunals consider requisite to the full investigation and consideration of matters within their jurisdiction in the same manner as a court of record in civil cases.</p> <p>(2) If any person fails to comply with an order of a tribunal under subsection (1)(c), or conducts himself in a manner that may be in contempt of the tribunal or its proceedings, the tribunal may apply to the Court of Queen’s Bench for an order directing compliance with the tribunal’s order, or restraining any conduct found by the Court to be in contempt of the tribunal or its proceedings.</p>
Filing and service of award	<p>238(1) When it makes an award, a disputes resolution tribunal shall</p> <p style="padding-left: 20px;">(a) file a copy of it with the Minister, and</p> <p style="padding-left: 20px;">(b) serve a copy of it on the parties to the dispute.</p> <p>(2) The Minister may publish an award in any manner he considers fit.</p>
Judicial review	<p>239(1) Subject to subsection (2), no decision, award, recommendation or proceeding of a disputes resolution tribunal 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, declaration, judgment, prohibition, quo warranto or</p>

otherwise, to question, review, prohibit or restrain the tribunal or any of its proceedings.

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

- (3) The Court may, in respect of any appeal under subsection (2),
- (a) determine the issues to be resolved on the appeal, and
 - (b) limit the contents of the return from the tribunal to those materials necessary for the disposition of those issues.

Division 18

Effect of a Collective Agreement

Effect of
collective
agreement

240(1) If a collective agreement is settled by the agreement of the parties or as a result of the award or recommendations of a disputes resolution tribunal, 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 that is binding on that employer and that employer's organization is not a registered employer's organization, 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.

Term of
collective
agreements

241 If a collective agreement is for an unspecified term, the agreement shall be deemed to provide for its operation for a term of 1 year from the date that it commenced to operate.

Bridging of
collective
agreements

242(1) When notice to commence collective bargaining has been served under this Division, a collective agreement that applies to the parties at the time of service of the notice shall be deemed to continue to apply to the parties, notwithstanding any termination date in the agreement, until

- (a) a new collective agreement is concluded, or
- (b) a strike or lockout commences in accordance with Division 12.

(2) Nothing in this section or in section 241 prohibits the parties to a collective agreement from agreeing to a revision of any provision of the collective agreement.

Signing of collective agreement

243(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.

Filing collective agreement

244(1) Each of the parties to a collective agreement shall on its execution forthwith file 1 copy with the Director of Mediation Services.

(2) Within 14 days of filing a collective agreement under subsection (1), each of the parties who executed the agreement shall file with the Director of Mediation Services particulars on matters of compensation contained in the collective agreement, in the form and manner required by the Director.

Collective agreement declared void

245(1) Any collective agreement entered into between an employer or an employers' organization and a trade union 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) A decision, order, directive, declaration, ruling or proceeding of an employers' organization may be questioned or reviewed by way of an application for certiorari or mandamus if the application is filed with the Court of Queen's Bench and served on the employers' organization no later than 30 days after the date of the proceeding, decision, order, directive, declaration or ruling or reasons in respect thereof, whichever is later.

(3) 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.

Division 19

Collective Agreement Arbitration

Definition

246 For the purpose of this Division, "collective agreement" includes a settlement agreement under sections 193 to 195.

Requisites of collective agreement

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

(a) as to the interpretation, application or operation of the collective agreement,

(b) with respect to a contravention or alleged contravention of the 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.

Model clauses

248 If a collective agreement does not contain the provisions required under section 247, 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 between the parties to or persons bound by this collective agreement as to the interpretation, application, operation or contravention or alleged contravention of this agreement or as to whether such a difference can be the subject of arbitration, the parties agree to meet and endeavour to resolve the 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, 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, 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 Director of Mediation Services 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.

Other remedies **249(1)** In order to avoid delay and multiplicity of proceedings, an arbitrator, arbitration board or other body may refer a matter relating to the interpretation, application or operation of a collective agreement or a contravention or alleged contravention of a collective agreement to the Board or the Court of Queen's Bench in accordance with this section.

(2) If the matter is within the Board's jurisdiction under this Part, the arbitrator, arbitration board or other body may refer the matter to the Board for resolution.

(3) If the matter may constitute a contravention of Part 2 or of any other Act, the bargaining agent that represents the employee affected by the contravention or alleged contravention may apply by originating notice to the Court of Queen's Bench for the direction of the Court as to which proceeding should proceed and which proceeding should be stayed.

(4) When a reference or application is made under this section, the Board or Court may grant the employee affected by the contravention or alleged contravention relief from the limitation periods under the collective agreement, this Act or any other Act by substituting any new limitation period that the Board or Court considers appropriate.

(5) If the Board or Court substitutes a new limitation period for a limitation period in a provision of a collective agreement or Act, that provision shall, for the purpose of the particular contravention or alleged contravention that is the subject of the reference or application under this section, be deemed to be changed to the limitation period substituted by the Board or Court and the other provisions of the collective agreement or Act shall be applied with all necessary modifications.

(6) This section applies notwithstanding any other Act.

Appointment of single arbitrator **250(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 Director of Mediation Services in writing to appoint a single arbitrator.

(2) The expenses and remuneration of a single arbitrator appointed under subsection (1) shall be paid jointly by the parties.

Appointment to arbitration board **251(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 Director of Mediation Services 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 Director of Mediation Services 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) The expenses and remuneration of the person, persons or chairman appointed under subsection (1) shall be paid,

(a) in the case of a person or persons appointed under subsection (1)(a) or (c), by the party who fails or neglects to appoint the person or persons, or

(b) in the case of the chairman appointed under subsection (1)(b) or (c), jointly by the parties.

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

Ineligibility

252 Except in the case of a chairman, no person shall be disqualified from acting as a member of an arbitration board or other body unless that member is directly affected by the difference or has been involved in an attempt to negotiate or settle the difference.

Speeding up decision

253 When a difference has been submitted to an arbitrator, arbitration board or other body, whether or not a hearing has been held, 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 place of the arbitrator, arbitration board or other body complained against.

Majority decision and award

254(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.

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

(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 of Mediation Services may publish the award in any manner he considers fit.

Effect of award
on collective
agreement

255(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 some other penalty for the discharge or discipline that to the arbitrator, arbitration board or other body seems just and reasonable in all the circumstances.

Expedited
arbitration

256(1) Notwithstanding anything in this Part or in a collective agreement, if a difference between the parties to the collective agreement is a difference respecting termination, lay-off or long term suspension from employment, the difference shall be submitted to an arbitrator or arbitration board or other body

(a) within the time provided for in the collective agreement, or

(b) within 7 days from the day on which the employer is notified in writing of the difference or any other period agreed to by the parties,

whichever is earlier.

(2) If the parties to the collective agreement have not sooner appointed an arbitrator or arbitration board or other body in accordance with this Division within the time limit prescribed in subsection (1), the Director of Mediation Services shall appoint an arbitrator who shall inquire into the difference and issue an award, in writing, that is final and binding on the parties.

(3) An award by an arbitrator or arbitration board or other body with respect to a difference referred to in subsection (1) must be rendered within 14 days from the day on which the arbitrator or arbitration board is appointed or any longer period agreed to by the parties.

(4) The expenses and remuneration of an arbitrator or arbitration board appointed under this section shall be paid,

(a) in the case of a single arbitrator or the chairman of an arbitration board, jointly by the parties, and

(b) in the case of the members of an arbitration board other than the chairman, by the party who appoints that member or who fails or neglects to appoint that member.

Powers of
arbitrator

257(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 considers proper, whether admissible in a court of law or not,

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

(c) may summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce the documents and things that the arbitrator, arbitration board or other body consider requisite to the full investigation and consideration of matters within their jurisdiction in the same manner as a court of record in civil cases.

(3) If any person fails to comply with an order of an arbitrator, arbitration board or other body under subsection (1)(c), or conducts himself in a manner that may be in contempt of the arbitrator, arbitration board or other body or its proceedings, the arbitrator, arbitration board or other body may apply to the Court of Queen's Bench for an order directing compliance with the order of the arbitrator, arbitration board or other body, or restraining any conduct found by the Court to be in contempt of the arbitrator, arbitration board or other body or its proceedings.

Parties bound
by award

258 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.

Appeal of award **259**(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 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) A decision, order, directive, declaration, ruling or proceeding of an arbitrator, arbitration board or other body may be questioned or reviewed by way of an application for certiorari or mandamus if the application is filed with the Court of Queen's Bench and served on the arbitrator, arbitration board or other body no later than 30 days after the date of the proceeding, decision, order, directive, declaration or ruling or reasons in respect thereof, whichever is later.

(3) The Court may, in respect of an appeal pursuant to subsection (2), determine the issues to be resolved on the appeal, and limit the contents of the return from the arbitrator or arbitration board to those materials necessary for the disposition of those issues.

Enforcement of award **260**(1) If an employers' organization, employer, bargaining agent or employee fails to comply with an award of an arbitrator or arbitration board or other body, an 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 a clerk of the Court of Queen's Bench and thereupon the directive is enforceable as a judgment or order of the Court.

(2) In the event an award, filed with the Court, proves uncertain or ambiguous, a judge of the Court of Queen's Bench may resolve the issue, or refer the award back to the arbitrator for clarification on any terms, and subject to any conditions, that the Court considers just.

Division 20

Prohibited Practices

Alteration of terms of employment **261**(1) If a trade union has applied 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 served pursuant to section 172(1) within 30 days after the date of certifica-

tion 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 the time limits referred to in section 184(2) have expired.

(3) If a notice to commence collective bargaining has been served pursuant to section 172(2), 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 collective agreement between the employer or employers' organization and bargaining agent ceases to be in effect, or the right of the bargaining agent to represent the employees is terminated.

Prohibited
practices

262(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
 - (i) the formation or administration of a trade union, or
 - (ii) the representation of employees by 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,
- (b) makes to a trade union donations to be used solely for the welfare of the members of the trade union and their dependants, or
- (c) expresses his views so long as he does not use coercion, intimidation, threats, promises or undue influence.
- (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 indicated in writing his selection of a trade union to be the bargaining agent on his behalf,
 - (iii) 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,
 - (iv) has testified or otherwise participated or may testify or otherwise participate in a proceeding under this Part,
 - (v) has made or is about to make a disclosure that he may be required to make in a proceeding under this Part,
 - (vi) has made an application or filed a complaint under this Part,
 - (vii) has participated in any strike that is permitted by this Part, or
 - (viii) has exercised any right under this Part;
 - (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 Part;
 - (c) seek by intimidation, dismissal, 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;
 - (d) 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 Part;

(e) 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 that employer or employers' organization or person acting on behalf of them knows, or in the opinion of the Board ought to know, that another trade union is the bargaining agent for that unit;

(f) 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 this Part;

(g) 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 the person

(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 Part,

(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 Part, or

(iii) has made an application or filed a complaint under this Part;

(h) engage in strike-related misconduct or use, or authorize or permit the use of, a professional strike breaker or an organization of professional strike breakers.

(4) When a complaint is made in respect of an alleged failure by an employer, employers' organization or person acting on behalf of the employer or employers' organization to comply with subsection (3)(a), the burden of proof lies on the employer, employers' organization or person acting on behalf of the employer or employers' organization, as the case may be.

(5) In subsection (3)(h),

(a) "professional strike breaker" means a person who is not involved in a dispute and whose primary object, in the Board's opinion, is to prevent, interfere with or break up lawful activities in respect of a strike or lockout;

(b) "strike-related misconduct" means a course of conduct of incitement, intimidation, coercion, undue influence, provocation, infiltration, surveillance or any other like course of conduct intended to prevent, interfere with or break up lawful activities in respect of a strike or lockout.

Insurance scheme **263(1)** No employer or employers' organization and no person acting on behalf of an employer or employers' organization shall deny to any employee any pension rights or benefits, health rights or bene-

fits, medical rights or benefits or insurance rights or benefits to which the employee would be entitled but for

(a) the cessation of work by the employee as the result of a lock-out or strike that is permitted by this Part, or

(b) the dismissal of the employee contrary to this Part.

(2) No employer or any person acting on behalf of the employer shall, without lawful excuse,

(a) deny or threaten to deny to an employee any benefit under an insurance scheme,

(b) cancel or threaten to cancel an insurance scheme,

(c) refuse to accept any of the premiums tendered by a bargaining agent, or

(d) fail to remit to the insurer any of the premiums tendered by a bargaining agent,

where

(e) the employee in a unit of employees of the employer ceases to work because the employees in the unit are locked out by the employer or because the employees in the unit are on a lawful strike, and

(f) the union that was the bargaining agent for the employees in the unit at the time the lockout or strike commenced tenders, or attempts to tender, to the employer, for the duration of the lock-out or strike, the premiums in respect of the insurance scheme.

(3) In subsection (2), “insurance scheme” means a medical, dental, disability, life or other insurance scheme normally maintained by the employer on behalf of the employees in the unit.

Prohibited
practices

264 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) 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.

Refusal to work **265** 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 Part.

Right of employer **266** Nothing in this Part detracts from or interferes with the right of an employer to suspend, transfer or lay off employees, or discharge employees for proper and sufficient cause.

Division 21 Miscellaneous

Health, welfare and pension trusts **267(1)** Notwithstanding 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 of Queen's Bench may, on the application of the trustees or any of them and on the applicant giving any notice that 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.

Non-application
of other Acts

268(1) The *Arbitration Act* does not apply to an arbitration or other proceeding under this Act.

(2) The *Regulations Act* does not apply to an order, decision, notice, directive, declaration, award, recommendation or certificate issued or made by the Board, a disputes resolution tribunal or an arbitrator, arbitration board or other body referred to in Division 19.

Division 22

Offences and Penalties

Specific offences

269 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 a labour relations officer in the exercise of any power or duty given to him under this Part,

(d) fails to produce any books, records, documents, papers, pay-rolls, 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 a labour relations officer, or

(f) makes a complaint to the Board knowing it to be untrue,

is guilty of an offence.

Penalties
re prohibited
lockouts

270(1) Any employer or employers' organization that commences or causes a lockout contrary to this Part 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 Part is guilty of an offence and liable to a fine not exceeding \$10 000.

Penalties re
prohibited strikes

271(1) Any trade union that causes a strike contrary to this Part 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 Part is guilty of an offence and liable to a fine not exceeding \$10 000.

(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 Part is guilty of an offence and liable to a fine not exceeding \$1000.

General offence
and penalty

272 Subject to sections 270 and 271, any person, employee, employer, employers' organization or trade union that contravenes or fails to comply with any provision of this Part or of any decision, order, directive, declaration or ruling made by the Board under this Part 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.

Prosecutions

273 No prosecution for an offence under this Division shall be commenced without the consent in writing of the Minister.

PART 4

TRANSITIONAL, CONSEQUENTIAL, REPEAL AND COMMENCEMENT

Transitional

274(1) *An order, approval, declaration, determination, demand or certificate under the Employment Standards Act shall be deemed to be an order, approval, declaration, demand or determination under Part 2 of this Act.*

(2) *Every person appointed under the Employment Standards Act shall continue as if appointed under Part 2 of this Act until he is reappointed or another is appointed in his place.*

(3) *All regulations under the Employment Standards Act remain in force and shall be deemed to have been made under Part 2 of this Act in so far as they are not inconsistent with this Act.*

(4) *With respect to any claim, proceeding, prosecution or other matter under the Employment Standards Act or regulations under the Employment Standards Act, that claim, proceeding, prosecution or other matter shall be continued to its conclusion under those provisions as if this Act had not come into force and the Employment Standards Act and regulations under it had remained in force.*

(5) *Overtime agreements entered into under the Employment Standards Act shall be deemed to expire when this Act comes into force.*

(6) *Subject to subsection (2), this Act applies only in respect of wages, overtime pay, entitlements or maternity benefits earned or to which an employee is entitled after the date this Act comes into force.*

(7) *If wages, overtime pay, entitlements or maternity benefits are earned or claimed to be earned with respect to a period before and after this Act comes into force, this Act applies with respect to them.*

Application for
certification
continued under
former Act

275(1) *Subject to subsection (2), an application for certification made to the Board under section 34 of the Labour Relations Act before the commencement of section 143 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 Labour Relations 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 151 of this Act.

Application for consolidation continued under former Act

276(1) Subject to subsection (2), an application for the consolidation of certificates into one consolidated certificate made to the Board pursuant to section 41 of the Labour Relations 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 Labour Relations 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 153 of this Act.

Application for revocation of certification continued under former Act

277(1) Subject to subsection (2), an application to the Board for the revocation of the certification of a bargaining agent pursuant to section 43 of the Labour Relations 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 Labour Relations 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 167 of this Act.

Application for registration continued under former Act

278(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 53 of the Labour Relations 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 Labour Relations 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 issue a registration certificate under this Act.

Application for cancellation of registration continued under former Act

279(1) Subject to subsection (2), an application to the Board for the cancellation of the registration of an employers' organization pursuant to section 60 of the Labour Relations 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 Labour Relations 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 this Act.

Proceedings continued

280 Any proceedings or action taken under the Labour Relations 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 mediator;

- (c) any vote;
- (d) a strike, lockout or picketing;
- (e) the appointment of an arbitrator or arbitration board;
- (f) the appointment of a disputes inquiry board;

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

Arbitration proceedings continued under former Act

281(1) *Subject to section 247, 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 commencement of this Act.*

(2) If an arbitrator, arbitration board or other body has been appointed pursuant to section 118 of the Labour Relations 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 Labour Relations Act had remained in force.

Applications continued under former Act

282(1) *Subject to subsection (2), an application to the Board made pursuant to section 132 of the Labour Relations 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 Labour Relations 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 158 of this Act.

Applications continued under former Act

283(1) *Subject to subsection (2), an application to the Board made pursuant to section 135 of the Labour Relations 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 Labour Relations 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 161 of this Act.

Inquiries into complaints continued under former Act

284(1) *An inquiry into a complaint made to the Board under section 142 of the Labour Relations 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 Labour Relations 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 129 of this Act.

Documents deemed filed **285** *Where a trade union has filed documents with the Board pursuant to section 23 of the Labour Relations Act, the documents shall be deemed to have been filed pursuant to section 135 of this Act.*

Certification and registration continued **286(1)** *A trade union certified as a bargaining agent under the Labour Relations Act shall be deemed to be a certified bargaining agent under this Act.*

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

Consequential **287(1)** *In the following provisions "Labour Relations Act and the Employment Standards Act" is struck out and "Labour Code" is substituted:*

Act	Section Number
Banff Centre Act	26
Colleges Act	21.6
Technical Institutes Act	34
Universities Act	21.7

(2) The Companies Act is amended in section 283(1) by striking out "section 100(1) of the Employment Standards Act" and substituting "sections 109 and 110 of the Labour Code".

(3) The Domestic Relations Act is amended in section 30(7) by striking out "section 100(1) of the Employment Standards Act" and substituting "sections 109 and 110 of the Labour Code".

(4) The Individual's Rights Protection Act is amended in section 7(1.2) by striking out "Division 7 of Part 3 of the Employment Standards Act" and substituting "Division 10 of Part 2 of the Labour Code".

(5) The Manpower Development Act is amended in sections 28 and 30(2)(e) by striking out "Employment Standards Act" and substituting "Labour Code".

(6) The School Act is amended in section 170(2) by repealing clause (c) and substituting the following:

(c) the Director of Employment Standards under the Labour Code.

Consequential **288(1)** *In the following provisions "Labour Relations Act" is struck out wherever it occurs and "Labour Code" is substituted:*

Act	Section Number
Banff Centre Act	28(e)
Burial of the Dead Act	1(2) and 2
Colleges Act	21.9
Election Finances and Contributions Disclosure Act	1(1)(q)
Employment Agencies Act	2(b)
Employment Pension Plans Act	5(2)
Insurance Act	1(x.1)
Police Officers Collective Bargaining Act	1(d) and (n) and 43(1) and (2)
Private Vocational Schools Act	2(i)

School Act	72(6) and (7) and 82(3)(a)
Student and Temporary Employment Act	2
Technical Institutes Act	36(e)
Universities Act	21.91(e)

(2) The Public Service Employee Relations Act is amended in section 21(f) by striking out “an officer under the Labour Relations Act” and substituting “a labour relations officer under the Labour Code”.

Repeal **289** *The Employment Standards Act and the Labour Relations Act are repealed.*

Coming into force **290** *This Act comes into force on Proclamation.*