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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 21

EMPLOYMENT STANDARDS CODE

THE MINISTER OF LABOUR

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 21

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1988

EMPLOYMENT STANDARDS CODE

(Assented to , 1988)

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Preamble	<p>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</p> <p>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</p> <p>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</p> <p>WHEREAS employees and employers are best able to manage their affairs where statutory rights and responsibilities are clearly established and understood; and</p> <p>WHEREAS it is recognized that legislation establishing general employment standards is an appropriate mechanism through which terms and conditions of employment may be established;</p> <p>THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:</p>
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1(1) In this Act,

- (a) “collective agreement” has the same meaning that it has in the *Labour Relations Code*;
- (b) “Director” means the person appointed under the *Public Service Act* as the Director of Employment Standards;
- (c) “employee” means an individual employed to do work who is in receipt of or entitled to wages, and includes a former employee;
- (d) “employer” means a person who employs an employee, and includes a former employer;
- (e) “employment record” means the record required to be maintained under section 16 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;
- (f) “entitlements” means vacation pay, general holiday pay and pay in place of notice of termination of employment;
- (g) “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 as a general holiday for his employees;
- (h) “general holiday pay” means the general holiday pay payable to an employee under this Act;
- (i) “hours of work” means the period of time during which an employee works for his employer;
- (j) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (k) “officer” means an individual appointed pursuant to the *Public Service Act* and designated by the Director as an employment standards officer, and includes the Director;
- (l) “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 25 or the regulations;

- (m) “overtime rate” means a rate of pay at not less than 1.5 times the wages of an employee;
- (n) “parental benefits” means the benefits to which an employee is entitled under Division 10 of Part 2;
- (o) “pay period” means the period of employment established by an employer for the computation of wages, overtime pay or time off in place of overtime pay;
- (p) “served” means served in accordance with section 10;
- (q) “umpire” means an individual appointed as an umpire under Division 13 of Part 2;
- (r) “vacation pay” means vacation pay payable to an employee under Division 7 of Part 2;
- (s) “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;
- (t) “week” means, subject to section 20, 7 consecutive days;
- (u) “work” includes providing a service.

(2) A reference to “this Act” includes the regulations made under this Act.

Application

2(1) Subject to subsections (2) and (3), this Act applies 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 Act does not apply to

- (a) employers as defined in the *Public Service Employee Relations Act* and to whom that Act applies;
- (b) individuals employed by employers as defined in the *Public Service Employee Relations Act* and to whom that Act applies;
- (c) employees who are members of a municipal police 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 Act or a provision of it does not apply to them.

(3) Divisions 5, 6, 7, 8 and 11 of Part 2 do not apply to employees employed on a farm or ranch whose employment is directly related to

(a) the primary production of eggs, milk, grain, seeds, fruit, vegetables, honey, livestock, poultry or bees, or

(b) any other primary agricultural operation specified in the regulations

or to their employer while acting in the capacity of their employer.

PART 1

COMMUNICATION AND EDUCATION

Powers of the
Minister and
dissemination
of information

3(1) Subject to the other provisions of this Act, the Minister may, through communication and education, do those things he considers beneficial to the promotion of fair and equitable employment standards in Alberta.

(2) Without restricting the generality of subsection (1), the Minister may

(a) collect information and statistics relating to employment standards, and

(b) disseminate information in a manner and form that he considers will best promote fair and equitable employment standards.

(3) An employer shall make available to his employees at his place of business a copy of each notice, information bulletin or extract from this Act or the regulations that the Minister or the Director sends to the employer and requires him to make available.

Multi-sector
advisory council

4(1) The Minister may establish one or more councils to act in an advisory capacity with respect to employment standards.

(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 or 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.

Regulations

5(1) If he considers it in the public interest to do so, the Lieutenant Governor in Council may make regulations

(a) establishing structures and procedures through which employers and employees at a single work site can consult, communicate and exchange information respecting matters of mutual interest related to the employment relationship;

(b) authorizing the Minister to direct the employees of a single employer, any trade union that represents those employees, and the employer of those employees to participate in structures or procedures established under clause (a);

(c) co-ordinating any communication or consultation structures or 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 trade unions, employers and employees must make available in support of the operation of communication or consultation structures or 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) An employer, trade union or employee who contravenes a direction of the Minister under the regulations under subsection (1) is guilty of an offence.

Termination for
redundancy or
economic change

6(1) If an employer intends to terminate the employment of 50 or more employees at a single location 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.

(2) Subsection (1) does not apply if

(a) the employees are employed on a seasonal basis or for a definite term or task,

(b) the termination of employment is the result of unforeseeable or unpreventable cause beyond the control of the employer, or

(c) it would be unreasonable under the circumstances for the employer to give the notice referred to in that subsection.

PART 2
EMPLOYMENT STANDARDS

Division 1

Operation

Civil remedies
and greater
benefits

7(1) Nothing in this Act affects

- (a) any civil remedy that 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 a custom that
 - (i) provides to an employee wages, overtime pay, entitlements, parental benefits or other benefits at least equal to those provided for under this Act, or
 - (ii) imposes on an employer an obligation or duty greater than that provided for under this Act.

(2) If a collective agreement or any other agreement provides for an employee to receive wages, overtime pay, entitlements or parental benefits greater than those provided for in this Act, the employer shall give those greater wages, overtime pay, entitlements or parental benefits to his employee.

Agreements
excluding
application
of Act

8 An agreement by a person that this Act 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

9 For the purposes of this Act, the employment of employees shall be deemed to be continuous and uninterrupted and this Act, 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

10(1) If anything is required or permitted to be served under this Act it may, in addition to any other method provided by law, be served

- (a) in the case of service on an individual
 - (i) personally or by leaving it for him at his last or most usual place of abode with a person who appears to be 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 service on 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 a person who appears to be 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 service on 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 Act,

(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

11 In a proceeding or prosecution under this Act,

(a) a copy of a notice, directive, order, approval, permit, determination, demand or declaration certified by an 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 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

12 In a proceeding or prosecution under this Act a certificate of the Director that an employer has failed to comply with a notice, directive, demand or order is prima facie proof of the failure of the em-

ployer to comply, without proof that the certificate was signed by the Director or of the appointment of the Director.

Authority of
officers

13(1) An 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 Act or any order, determination, demand or declaration made, permit or approval granted or notice given under this Act 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 Act or an order, determination, demand or declaration made, permit or approval granted or notice given under this Act 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, information bulletins or extracts from this Act or the regulations at locations at the employer's place of business specified in the notice.

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

Conditions
attached to
orders or
directives

14(1) In exercising a power or duty under this Act, an 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 Act, a notice, directive or order given or an approval or permit granted by an officer under this Act 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

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

Division 3

Employment Records

Maintenance of
employment
records

16(1) Subject to section 17, 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) time off in place of overtime pay provided and taken;
- (d) name, address and date of birth;
- (e) date of commencement of the present term of employment;
- (f) wage rate and overtime rate at commencement of employment, and date and particulars of each change to them;
- (g) each annual vacation granted, showing
 - (i) the dates of commencement and completion, and
 - (ii) the period of employment covered by the annual vacation;
- (h) amount of vacation pay paid;
- (i) 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;
- (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) copies of written requests to an employee to return to work after a temporary layoff and any notice of termination of employment;
- (l) amount of money paid in place of notice of termination of employment;
- (m) 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

17(1) An employer may, with the written consent of the Director, maintain employment records in whole or in part at his principal place of business in Alberta or at any other place that the Director may designate.

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

Keeping
employment
records

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

Statement of
employment

19(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) time off in place of overtime pay provided and taken;
- (h) vacation pay paid;
- (i) general holiday pay paid;
- (j) money paid in place of notice of termination of employment;
- (k) amount of each deduction from the wages, overtime pay or entitlements of the employee and the purpose for which each deduction is made;
- (l) 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

Definitions

20 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.

Period for
computing wages
and overtime pay

21 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 may approve.

Payment of
wages, overtime
pay and
entitlements

22(1) Subject to subsections (2) and (3), within 10 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 by the employer or by the employee after giving notice under section 56, 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) If the employment of an employee is terminated by the employee without notice under section 56, the employer shall pay the employee the wages, overtime pay and entitlements to which the employee is entitled on the employee’s next scheduled pay day.

(4) 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, 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, trust company or other corporation insured under the *Canada Deposit Insurance Corporation Act* (Canada).

Deductions

23(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.

Notice of
reduction in
wages, etc.

24 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.

Division 5

Hours of Work and Overtime Pay

Hours of work
and overtime pay

25(1) Subject to sections 26, 27 and 28, 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.

Time off with
pay in place of
overtime pay

26(1) An employee or the majority of a group of employees may

(a) as part of a collective agreement, or

(b) if there is no collective agreement, in a written agreement between the employee or group of employees and the employer

agree that, wholly or partly in place of overtime pay, the employer will provide and the employee or group of employees will take time off with pay in place of overtime pay.

(2) An agreement referred to in subsection (1) shall be deemed to include at least the following provisions:

(a) that the time off with pay in place of overtime pay shall be provided, taken and paid at the regular rate of wages at a time that the employee could have worked and received wages from his employer;

(b) that if time off in place of overtime pay is not provided, taken and paid in accordance with clause (a), the employee shall be paid at the overtime rate for all the overtime hours with respect to which time off was not provided, taken and paid;

(c) that the time off in place of overtime pay shall be provided, taken and paid to the employee within 3 months of the end of the pay period in which it was earned unless

(i) the agreement is part of a collective agreement and the collective agreement provides for a longer period of time within which time off shall be provided and taken, or

(ii) the Director issues a permit authorizing an agreement that provides for a longer period within which time off with pay shall be provided and taken;

(d) that no amendment or termination of the agreement referred to in subsection (1)(b) shall be effective without at least 1 month's notice in writing by the employer or the employee or group of employees, as the case may be, to the other party to the agreement.

(3) For the purposes of this Act

(a) time off in place of overtime pay provided by an employer and taken by an employee shall be treated as hours of work, and

(b) remuneration paid to an employee in respect of the time off in place of overtime pay shall be treated as wages.

(4) The employer shall provide a copy of an agreement referred to in subsection (1)(b) to each employee affected by it.

Compressed
work week

27 An employer may require or permit 1 or more of his employees to work a compressed work week, if

(a) the employer notifies the Director prior to requiring or permitting the compressed work week arrangement, and

(b) the compressed work week arrangement results in a reduction of work days that the employees will work in consideration for increasing the daily hours of work for those employees.

Exempted
employees

28(1) Section 25 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.

(2) An 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

29 The hours of work of an employee shall be confined within a period of 12 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 issues a permit authorizing extended hours of work, or

(c) a regulation permits extended hours of work.

Hours of rest

30(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 consecutive days of rest in each period of 4 consecutive weeks.

(2) No employer shall cause an employee to work for a period of more than 24 consecutive days unless the period is followed by at least 4 consecutive days of rest.

(3) An employer shall grant each of his employees a paid or unpaid rest period of at least ½ hour during each shift in excess of 5 consecutive hours of work unless

(a) an accident occurs, urgent work is necessary or other unforeseeable or unpreventable circumstances occur,

(b) the Director issues a permit authorizing an exemption from this section,

(c) a regulation permits an exemption from this section,

(d) pursuant to a collective agreement, different rest provisions are agreed to, or

(e) it is not reasonable for the employee to take a rest period.

Notice re work
schedules

31(1) Every employer shall notify his employees

- (a) of the time at which work begins and ends, or
- (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 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.

Hours of work
regulations

32(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 Act 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 Act;
- (c) prescribing those hours of work in respect of which the over-time 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 Act and governing 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 Act to the contrary.

Division 6

Minimum Wage

Minimum wage
regulations

33 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

34(1) The Director 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 is satisfied that the proposed employment arrangement between the employer and prospective employee is satisfactory for both of them in all the circumstances.

(2) A party to a permit under subsection (1) may appeal to an umpire under section 100.

Division 7

Vacations and Vacation Pay

Interpretation

35 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 the periods of employment.

Vacation and
vacation pay
entitlement

36(1) Subject to section 37, an employer shall give to each of his employees,

(a) after each 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) to (4).

(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.

(4) Vacation pay paid to an employee shall be deemed to be wages for the purpose of calculating the vacation pay payable to the employee in the following year.

Proportionate
reduction in
vacation pay

37 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

38(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 36(2) and reduced proportionately according to the length of vacation to which the employee is entitled under subsection (2).

Payment of
vacation pay

39(1) Subject to subsection (2), vacation pay shall be paid to an employee on the employee's next scheduled pay day or, at the request of the employee, on a day determined by the employer during the period from 1 to 14 days preceding the commencement of the employee's annual vacation.

(2) If the employment of an employee is terminated, the employer shall pay the employee 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 the vacation pay to which he would have been entitled in that year if he had remained employed by the employer and

(i) in the case of an employee who has been employed for less 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, or

(ii) 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 **40(1)** Subject to subsection (2), an employer shall grant the annual vacation to which an employee is entitled under this Act in one unbroken period.

(2) At the written request of an employee, an employer may grant the annual vacation to which the employee is entitled under this Act in periods of not less than 1 day.

(3) 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 under this Act.

Notice by employer re annual vacation **41** 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 **42(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 vacation 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.

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

Division 8

General Holidays and General Holiday Pay

Definitions **43** 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

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

- (a) has worked for less than 30 days during the preceding 12 months,
- (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

45 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

46 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 day's 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

47 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

48 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

49 If an employee works on a general holiday and is paid in accordance with section 46(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

50 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

51(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 Act to the contrary.

Division 9

Termination of Employment

Definitions

52 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 54 or by an employee to an employer in accordance with section 56;

(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

53 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 the periods of employment.

Termination of
employment

54(1) Subject to sections 55 and 56, no employer shall terminate the employment of an employee unless he gives the employee

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

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

(c) a combination of notice of termination and money in place of notice of termination in accordance with subsection (2)(c).

(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,

(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), or

(c) a combination of a portion of the notice of termination required under clause (a) together with money that is at least equal to the wages the employee would earn if he worked his regular

hours of work for the period of notice applicable to the employee under clause (a) that is not given.

(3) If the wages of an employee vary from one week to another or from 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 the employee pursuant to subsection (2)(b) or (c).

No notice of
termination
required

55(1) No notice of termination of employment, payment of money in place of notice of termination or combination of notice and money in place of notice is required to be given or paid by an employer under this Act 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;

unless the employee

(x) is employed to perform ongoing 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 either to 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.

(2) For the purpose of subsection (1)(b)(x) a person shall be deemed to be employed to perform ongoing maintenance if the person is continuously employed to maintain anything referred to in subsection (1)(b)(i) to (ix).

Notice of
termination
by employee

56(1) If an employee wishes to terminate his employment, the employee shall give his employer written notice of his intent to terminate his employment of at least

- (a) 1 week, if the employee has been employed by the employer for more than 3 months but less than 2 years, or
- (b) 2 weeks, 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 his personal health or safety would be in danger if he continued 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 55(1)(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.

(3) If an employee gives notice to his employer under subsection (1) and the employer wishes to terminate the employment of the employee before the end of the notice period, the employer shall

- (a) pay the employee 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 remainder of that notice period, or

(b) if the notice given by the employee is greater than that required to be given by an employer under section 54, pay the employee 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 remainder of the notice period that the employer would be required to give the employee under that section.

Prohibition re
benefits on notice
of termination

57 When a notice of termination is given by an employer to an employee or by an employee to an employer,

(a) the employer shall not reduce the wages or 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 the employee would have been entitled if he 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 54(2)(b) or (c) or 56(3), as the case may be, or

(ii) the employee's employment is terminated under section 55(1)(e), (f), (g), (h) or (k).

Continuation of
employment after
termination

58 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

59(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.

Division 10
Parental Benefits

Definitions	<p>60 In this Division,</p> <p>(a) “date of delivery” means the date when the pregnancy of an employee terminates with the birth of a child or when the pregnancy otherwise terminates;</p> <p>(b) “medical certificate” includes a written statement for the purpose of this Division containing the signature of a physician;</p> <p>(c) “parental leave” means maternity leave or adoption leave under this Division.</p>
Entitlement to maternity leave	<p>61(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.</p> <p>(2) A pregnant employee referred to in subsection (1) is entitled to maternity leave of</p> <p>(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</p> <p>(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.</p> <p>(3) Subject to section 63, the maternity leave shall include a period of at least 6 weeks immediately following the actual date of delivery.</p>
Notice of maternity leave	<p>62(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.</p> <p>(2) A pregnant employee is entitled to commence maternity leave referred to in section 61 on the expiration of the 2 weeks’ notice given under subsection (1).</p>
Shortening maternity leave	<p>63 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.</p>
No notice of maternity leave	<p>64 An employee who fails to comply with section 62 and who is otherwise entitled to maternity leave is entitled to maternity leave for the period specified in section 61(2) if within 2 weeks after she ceases to work she provides her employer with a medical certificate</p> <p>(a) indicating that she is not able to work by reason of a medical condition arising from her pregnancy, and</p> <p>(b) giving the estimated date of delivery or the actual date of delivery.</p>

Extended maternity leave	<p>65 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 61(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.</p>
Notice to commence maternity leave	<p>66 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.</p>
Adoption leave	<p>67(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</p> <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 adoptive 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	<p>68 Subject to section 70, no employer shall terminate the employment of or lay off an employee who</p> <ul style="list-style-type: none"> (a) has commenced maternity leave, or (b) is entitled to or has commenced adoption leave, <p>under this Division.</p>
Notice of resumption of employment	<p>69(1) An employee who wishes to resume working 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 working for the employer and the employer shall</p> <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, <p>at not less than the same wages, entitlements and other benefits that had accrued to the employee to the date that parental leave commenced.</p>

(2) No employer is required to allow an employee to whom parental leave has been granted under this Division to resume employment with the employer after the date of delivery or the date of first obtaining custody until after the expiration of 2 weeks from the date on which the employee notifies the employer of the employee's intention to resume working.

Suspension of operations

70(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.

Notice of termination of employment

71 An employee who does not wish to resume employment on the expiration of parental leave under this Division shall give the employer at least 2 weeks' written notice of the employee's intent to terminate employment.

Division 11

Employment of Young Persons

Regulations for employment of young persons

72(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.

(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 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 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

73 The Lieutenant Governor in Council may make regulations

(a) exempting an employment described or referred to in the regulations from section 16 and Divisions 4 to 9, 11 and 12 of this Act or a provision of or a regulation made under any of those Divisions;

(b) specifying primary agricultural operations for the purposes of section 2(3);

(c) authorizing the Director to approve a scheme of employment between an employer and his employees notwithstanding any other provision of this Act;

(d) 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;

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

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

(g) delegating to the Director, 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

74 The Lieutenant Governor in Council may appoint umpires for the purposes of this Act.

Provincial judges
as umpires

75(1) If a provincial judge is appointed as an umpire he may issue or direct an employee of the Crown in right of Alberta to issue a subpoena to any person who in the opinion of the umpire may be able to give evidence that 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
witnesses and
production of
documents

76(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 under section 75.

Division 14

Single Employer Declaration

Service of single
employer
declaration

77(1) If, in the opinion of an 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 Act.

(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

78 If an 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 Act, 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

79 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 under section 80 or a further demand under section 81(3);

(c) “employer” includes a person in respect of whom a certificate has been filed in the Court of Queen’s Bench under section 108(5).

Director’s
demand to third
party

80(1) If the Director knows or has reason to believe that

(a) an employer has failed or is likely to fail to pay wages, overtime pay, entitlements or an amount payable under section 92 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 may, notwithstanding that he has not determined the amount of wages, overtime pay, entitlements or an amount payable under section 92 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 the money specified in the demand.

Duties of
third party

81(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 the amount of his indebtedness to the employer or the amount specified, whichever is the lesser,

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

(c) if he is at the time of receipt of the demand not indebted to the employer but indebtedness is likely to arise or will arise at a

future date or on the happening of a future specified event, reply to the Director accordingly.

(2) If the Director is satisfied that a reply under subsection (1)(b) is true, he shall revoke the Director's demand.

(3) On receipt of a reply under subsection (1)(c), the Director 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 the amount of his indebtedness to the employer or the amount specified, whichever is the lesser.

Right of third party to make deductions

82 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

83(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 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 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, entitlements or amount payable under section 92 in respect of which the Director's demand was issued.

Liability of third party not discharged

84 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 in writing to discharge all or part of the debt, or

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

Receipt issued by Director	85 The receipt of the Director 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	86 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 an amount payable under section 92 owed by the employer, the Director may pay the money in accordance with the order.
Director's notice of receipt of money	<p>87(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 amount payable under section 92 to which the employee claims to be entitled, the Director shall forthwith serve the employer and employee 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 amount payable under section 92 to which an employee claims to be entitled, and (d) that, unless an appeal is made in accordance with section 100, the Director 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, entitlements or an amount payable under section 92, <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>88(1) If there is no appeal under section 87, the Director may pay the money in accordance with the notice served under section 87(1).</p> <p>(2) If there is an appeal under section 87, the Director shall hold the money pending the disposition of the appeal by an umpire.</p>

Division 16

Recovery Provisions

Complaint	89 An employee may make a written complaint to the Director that the employee is entitled to wages, overtime pay, entitlements, notice under section 24 or parental benefits.
Mediation by officer	<p>90(1) An officer may mediate between an employer and an employee for the purpose of settling or compromising differences between them and in so doing may</p> <ul style="list-style-type: none"> (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 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 of them in respect of the settlement or compromise.

(3) When an 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 officer

91(1) If an 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, or

(b) the employer contravened section 24.

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

(a) direct an employer to pay to an employee, or to pay to the Director on behalf of an employee, the wages, overtime pay or entitlements to which the employee is entitled, or

(b) in a case where notice under section 24 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 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.

Order of Director

92(1) If the Director is unable to mediate, settle or compromise a difference between an employer and his employee, the Director shall make an order under this section if he has determined that the employee was suspended or discharged contrary to section 68, 112 or 113(b), (c) or (d).

(2) Subject to section 95, an order of the Director may direct an employer to

(a) reinstate an employee who has been suspended or discharged contrary to section 68, 112 or 113(b), (c) or (d), or

(b) pay to the employee, or to the Director on behalf of the employee, an amount not exceeding any sum that the employee would have earned if the employee had not been suspended or discharged contrary to those provisions,

or both.

General provisions on orders

93(1) If an 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 16 with respect to the employee, the officer may determine the amount in any manner he considers appropriate.

(2) An order under section 91 or 92 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 direct that an employee shall be reinstated, or both.

(3) A copy of an order under section 91 or 92 shall be served on

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

(4) A person on whom an order 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 officer has determined that an employee making a written complaint is not entitled to wages, overtime pay, entitlements, notice under section 24 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 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 may

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

(4) A decision of the Director or an 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 24 or parental benefits is final and binding.

(5) If the Director or an 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 24 or parental benefits, the Director or the officer may make an order under section 91 or 92.

Limitation
periods

95(1) Subject to subsection (3), no order of an officer may be made with respect to wages, overtime pay, entitlements or a notice under section 24,

- (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 the Director may be made under section 92 after 1 year from the date on which the employee was suspended or discharged contrary to this Act.

(3) Where the Director 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 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 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 officer, or

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

whichever first occurs.

(5) An order of the Director may, with respect to an amount referred to in section 92(2), direct the payment of that amount for a period not exceeding 6 months from the date of the suspension or discharge of the employee contrary to this Act or the failure of the employer to reinstate the employee or provide alternative work under section 69 or 70.

Order re claims,
counterclaims,
etc.

96 An order of an officer may take into account deductions authorized or permitted under this Act 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 officer may revoke, amend or vary an order, declaration or determination issued under this Act 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 may vary or amend a notice issued under section 87 at any time before the time for an appeal under section 100 has expired, but not after that time.

(3) The Director may revoke

(a) an order of an officer under section 91 or a certificate under section 108(3) at any time before it is filed in the Court of Queen's Bench, or

(b) a determination under section 28(2), a declaration under section 77 or a notice under section 87 at any time,

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

(4) If the Director 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 Act, the Director 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 Act, or

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

(2) When the Director 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 Act may appeal to an umpire by serving on the Director written notice of appeal specifying the reasons for the appeal.

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

(a) a copy of an order under section 91 or 92,

(b) a copy of a declaration under section 77,

(c) a copy of a determination made under section 28(2),

(d) a copy of a notice under section 87,

(e) a copy of a certificate under section 108(3)(b), or

(f) a copy of a permit under section 34.

(3) In the case of an appeal by an employer, the notice of appeal of an order under section 91 or 92 shall be accompanied by a money

order or certified cheque payable to the Director in an amount equal to

- (a) the amount ordered to be paid under section 91 or 92, 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 shall refer the appeal to an umpire.

(5) The Director shall notify

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

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

(6) The Director is a party to every appeal to an umpire and every proceeding resulting from an order of an 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 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 officer under section 91 or of the Director under section 92, the umpire may

- (a) confirm, vary or revoke the order of the officer or Director, or
- (b) revoke the order of the officer or Director and substitute for it any order that the officer or Director could have made.

(2) With respect to an appeal from a determination by an officer under section 28(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 77,

- (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 Act, 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 under section 87, the umpire may make any 1 or more of the following orders:

(a) an order for the payment of wages, overtime pay, entitlements or an amount payable under section 92 by an employer to employees, or to the Director on behalf of employees, that he considers appropriate;

(b) an order revoking the notice and the Director's demand under Division 15;

(c) an order requiring the Director to repay money received by the Director to the person who paid it, or to the employer.

(5) With respect to an appeal of a certificate under section 108(4), the umpire may confirm or revoke the certificate.

(6) With respect to an appeal of a permit under section 34, the umpire may confirm, vary or revoke the permit.

Umpire's order

104 An order of an umpire may take into account deductions authorized or permitted under this Act 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 91 or 92 is completed, the Director shall pay the money that was paid to him under section 100(3) to the person who is entitled to it in accordance with the decision of the umpire.

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

(3) If the amount of money paid by the Director under subsection (1) is less than the amount of wages, overtime pay, entitlements or an amount payable under section 92 ordered to be paid to the employee, the Director 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 for acting in compliance with this section or section 86, 88 or 99.

Division 18

Enforcement of Orders

Filing of order

107 If

(a) an order of an officer or of the Director 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 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.

Liability of
directors of
corporate
employer

108(1) Notwithstanding any other Act, the directors of a corporation are jointly and severally liable to an employee of the corporation with respect to all debts owed to the employee by the corporation for wages earned during a period not exceeding 6 months while they are the directors.

(2) Subsection (1) does not render a director liable for debts for wages if the director would not be liable for the reasons stated in section 114(2) or (3)(b) or (c) of the *Business Corporations Act*.

(3) Where wages owed to an employee by an employer that is a corporation are not paid, the Director of Employment Standards may serve on each of the directors and former directors of the corporation who, in the opinion of the Director of Employment Standards, are liable under subsection (1) for the unpaid wages

(a) a copy of the order that was filed under section 107, and

(b) a certificate stating that wages in a stated amount are due and unpaid by the employer and that the directors or former directors are liable for that amount.

(4) A director or former director of a corporation who is served with a certificate under subsection (3) may appeal to an umpire in accordance with section 100.

(5) If a director or former director does not commence an appeal under subsection (4) within 15 days from the date on which he is served with the documents referred to in subsection (3), or if a director or former director commences an appeal under subsection (4) but is unsuccessful, the Director of Employment Standards may file the certificate with the clerk of the Court of Queen's Bench and the certificate is then enforceable against the director or former director as an order or judgment of the Court of Queen's Bench.

(6) No certificate may be filed against a director under this section more than 2 years after the date he ceased to be a director.

(7) Section 114(6) and (7) of the *Business Corporations Act* apply to a director who has satisfied a claim under this section.

(8) In this section "corporation" does not include a society incorporated under the *Societies Act* or a company referred to in Part 9 of the *Companies Act*.

Reciprocal
enforcement of
orders

109(1) If the Lieutenant Governor in Council is satisfied that reciprocal provisions will be made by another province for the enforcement of orders of the Director, officers or umpires issued under this Act, 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 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, entitlements or an amount payable under section 92 is still owing, the Director 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 the Director, an officer or an umpire.

Division 19

Protection of Wages, Overtime Pay and Entitlements

Deemed trust

110(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 111, 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 that is registered in accordance with the *Conditional Sales Act*.

(4) This section and section 111 apply notwithstanding any other Act.

Registration
of order

111(1) The Director may file in a land titles office an order of the Director, an officer or an umpire respecting wages, overtime pay, vacation pay, general holiday pay or an amount payable under section 92.

(2) The secured charge referred to in section 110(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, general holiday pay or an amount payable under section 92 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, general holiday pay or an amount payable under section 92.

(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

112 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.

Specific
prohibitions

113 No employer or any other person shall discharge, restrict the employment of or in any manner discriminate against an individual because the individual

(a) has made a complaint under this Act,

(b) has given evidence or may give evidence at any inquiry or in any proceeding or prosecution under this Act,

(c) requests or demands anything to which he is entitled under this Act, or

(d) has made or is about to make any statement or disclosure that may be required of him under this Act.

Specific offences

114(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.

(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.

(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.

Offences

115 An employer, employee or other person who

- (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 officer or an order, certificate or demand of the Director,
- (c) delays or obstructs an officer in the exercise of a power or duty given to him under this Act,
- (d) requires an employee to work hours in excess of the hours of work permitted under this Act,
- (e) contravenes section 68,
- (f) contravenes section 72(1) or (2) or a regulation made under section 72(4),
- (g) falsifies any employment record,
- (h) gives any false or misleading information in respect of employment records,
- (i) makes a complaint to an officer knowing it to be untrue,
- (j) fails to maintain or retain an employment record required to be maintained and retained under this Act, or
- (k) contravenes section 112 or 113

is guilty of an offence.

Premium for
employment
prohibited

116 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

117 An employer who fails

- (a) to pay at least the minimum wage,
- (b) unless an agreement for time off in place of overtime pay is in effect, 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 69, 70 or 92(2)(a),

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

Offence and
penalty

118(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 119, the judge shall, if applicable, make one or more of the following orders:

(a) requiring the payment, within the time fixed by the judge, to the Director 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 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 69 or 70 and that the judge considers should be paid, or

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

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 24 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, directing 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 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 **119** An employer, employee, director, officer or other person who is guilty of an offence under this Act 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 **120** A prosecution for an offence under this Act may be commenced within 1 year from the date the alleged offence occurred.

PART 3

TRANSITIONAL, CONSEQUENTIAL, REPEAL AND COMMENCEMENT

Transitional **121(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 this Act.*

(2) *Every person appointed under the Employment Standards Act shall continue as if appointed under 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 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) *Subject to subsection (6), 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.*

(6) *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.*

Consequential **122(1)** *In the following provisions “Labour Relations Act and the Employment Standards Act” is struck out and “Employment Standards Code and the Labour Relations 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 110 and 111 of the Employment Standards 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 110 and 111 of the Employment Standards 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 Employment Standards Code”.*

(5) *The Manpower Development Act is amended in sections 28 and 30(2)(e) by striking out “Employment Standards Act” and substituting “Employment Standards 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 *Employment Standards Code*.

Repeal **123** *The Employment Standards Act is repealed.*

Coming into force **124** *This Act comes into force on Proclamation.*