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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 22

LABOUR RELATIONS CODE

THE MINISTER OF LABOUR

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 22

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1988

LABOUR RELATIONS CODE

(Assented to , 1988)

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

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

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

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

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

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

1 In this Act,

- (a) “bargain collectively” or “collective bargaining” means to negotiate or negotiation with a view to the conclusion of a collective agreement or the revision or renewal of a collective agreement;
- (b) “bargaining agent” means a trade union that acts on behalf of employees in collective bargaining or as a party to a collective agreement with an employer or employers’ organization, whether or not the bargaining agent is a certified bargaining agent;
- (c) “Board” means the Labour Relations Board;
- (d) “certified bargaining agent” means a trade union certified by the Board as a bargaining agent;
- (e) “Chairman” means the Chairman of the Board;
- (f) “collective agreement” means an agreement in writing between an employer or an employers’ organization and a bargaining agent containing terms or conditions of employment, and may include 1 or more documents containing 1 or more agreements;
- (g) “Court” means the Court of Queen’s Bench;
- (h) “Director” means the person appointed under the *Public Service Act* as the Director of Mediation Services;
- (i) “dispute” means a difference or apprehended difference arising in connection with the entering into, renewing or revising of a collective agreement;
- (j) “disputes resolution tribunal” means
 - (i) a voluntary arbitration board referred to in Division 15,
 - (ii) a compulsory arbitration board referred to in Division 16,
 - (iii) a disputes inquiry board referred to in Division 17, or
 - (iv) a public emergency tribunal referred to in Division 18;
- (k) “employee” means a person employed to do work who is in receipt of or entitled to wages, but does not include
 - (i) a person other than a firefighter who, in the opinion of the Board, exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations,
 - (ii) a person who is a member of the medical, dental, architectural, engineering or legal profession qualified to practise under the laws of Alberta and employed in his professional capacity, or
 - (iii) a firefighter who is the chief or a deputy chief of the fire department in which he is employed;
- (l) “employer” means a person who customarily or actually employs an employee;

(m) “employers’ organization” means an organization of employers that acts on behalf of an employer or employers and has as one of its objects the regulation of relations between employers and employees;

(n) “firefighters” means the employees, including officers and technicians, employed by a municipality and assigned exclusively to fire protection and fire prevention duties notwithstanding that those duties may include the performance of ambulance or rescue services;

(o) “lockout” includes

- (i) the closing of a place of employment by an employer,
- (ii) the suspension of work by an employer, or
- (iii) a refusal by an employer to continue to employ employees,

for the purpose of compelling his employees, or to aid another employer in compelling the employees of that employer, to accept terms or conditions of employment;

(p) “lockout vote” means the polling of a single employer or a vote of employers under section 73(2);

(q) “mediator” means a person whose services are provided under section 61 or who is appointed as a mediator under this Act;

(r) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

(s) “officer” means a person designated under section 8(5);

(t) “strike” includes

- (i) a cessation of work,
- (ii) a refusal to work, or
- (iii) a refusal to continue to work,

by 2 or more employees acting in combination or in concert or in accordance with a common understanding for the purpose of compelling their employer or an employers’ organization to agree to terms or conditions of employment or to aid other employees to compel their employer or an employers’ organization to accept terms or conditions of employment;

(u) “strike vote” means a vote of employees under section 73(1);

(v) “trade union” means an organization of employees that has a written constitution, rules or by-laws and has as one of its objects the regulation of relations between employers and employees;

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

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

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

Delegation of
Minister’s and
Director’s
responsibilities

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

(2) Subsection (1) does not apply to the Minister’s power to direct a vote under section 14(3)(b) or to consent to a prosecution under section 159.

Witnesses

3(1) The Minister, a member or officer of the Board, an employee of the Crown in right of Alberta employed in the administration of this Act or any person designated by the Minister or selected by the parties to endeavour to effect settlement of any matter to which this Act applies is not a compellable witness in proceedings before any court respecting any information, material or report obtained by him under this Act.

(2) In this section, “court” means the Court of Queen’s Bench or any other court and includes the Labour Relations Board or any other board or person having by law or by the consent of the parties authority to hear, receive and examine evidence, but does not include an inquiry under the *Public Inquiries Act*.

Application
of Act

4(1) Subject to subsection (2), this Act applies to every employer and employee and is binding on the Crown in right of Alberta.

(2) This Act does not apply to

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

(b) a person employed by an employer as defined in the *Public Service Employee Relations Act* and to whom that Act applies;

(c) employers and employees in respect of whom this Act does not apply by virtue of a provision of another Act;

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

(e) employees employed on a farm or ranch whose employment is directly related to

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

(ii) any other primary agricultural operation specified in the regulations under the *Employment Standards Code*

or to their employer while he is acting in the capacity of their employer;

(f) employees employed in domestic work in a private dwelling or to their employer while he is ordinarily resident in the dwelling and acting in the capacity of their employer.

PART 1

COMMUNICATION AND EDUCATION

Powers of the Minister and dissemination of information

5(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 labour relations in Alberta.

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

(a) collect information and statistics relating to labour relations, and

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

(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 Board sends to the employer and requires him to make available.

Multi-sector advisory council

6(1) The Minister may establish one or more councils to act in an advisory capacity with respect to labour relations.

(2) The Minister may, with respect to a council established under this section,

(a) appoint or provide for the manner of appointment of its members,

(b) prescribe the term of office of any member,

(c) designate or provide for the designation of a chairman, vice-chairman 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.

Round-table conference

7 The Minister shall, from time to time, convene a conference consisting of representatives of business, trade unions, the academic community and any other groups he considers advisable for the pur-

pose of developing a general understanding of Alberta's economic circumstances and those factors critical to continued economic growth.

PART 2
LABOUR RELATIONS

Division 1

Labour Relations Board

Composition
of Board

8(1) The Labour Relations Board previously established is continued as the Labour Relations Board.

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

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

- (a) 5 years in the case of the Chairman and vice-chairmen, and
- (b) 3 years in the case of other members,

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

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

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

Sittings of
the Board

9(1) The members of the Board shall meet at the times and places specified by the Chairman or a vice-chairman, and may meet as the Board or as divisions of the Board.

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

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

(4) A decision of a majority of the members of the Board or a division of the Board present and constituting a quorum is the decision of the Board, but if there is a tie vote, the Chairman or the vice-chairman presiding at the meeting may cast a 2nd vote.

(5) Notwithstanding any vacancy in the membership of the Board, if at least 3 members remain in office, the remaining members have and may exercise and perform the powers, duties and functions of the Board.

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

ticipated as a member of the Board, until the proceeding is completed.

(7) Notwithstanding subsection (3), the Chairman or a vice-chairman may sit alone to hear and decide a question under section 11(3)(b), (d), (l), (m), (n) or (o) or section 73(4).

(8) When the Chairman or a vice-chairman sits alone under subsection (7) or the Board meets as a division of the Board under subsection (1), the Chairman, vice-chairman or division, as the case may be, shall be deemed to be the Board for the purposes of this Act.

Informal
procedure

10(1) Notwithstanding section 9, the Chairman may, where in the interest of settlement of the matter in dispute it is desirable to do so, assign any matter before the Board to a panel consisting of 1 or more members of the Board.

(2) For the purposes of resolving the matter in dispute, the member or members of the Board to whom the matter is assigned under subsection (1) may

- (a) conduct informal hearings,
- (b) engage in efforts at settlement, and
- (c) issue reports to the parties to the dispute and the Board on any resolution achieved and any matters that remain unresolved and what the member or members consider ought to be done in respect of those matters.

(3) On application by a party to the dispute, the Board may confirm a report issued under subsection (2) as a decision of the Board.

Powers of
the Board

11(1) Notwithstanding anything in this Act, the powers and duties of the Board shall be performed and exercised in a manner consistent with the jurisdiction conferred on the Board by this Act or any other enactment conferring jurisdiction on the Board.

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

- (a) receive applications, references and complaints,
- (b) conduct any inquiries or investigations that it considers necessary, either itself or through its officers,
- (c) conduct any hearings that it considers necessary,
- (d) require, conduct or supervise votes only by secret ballot,
- (e) make or issue any interim orders, decisions, directives or declarations it considers necessary pending the final determination of any matter before the Board,
- (f) make or issue any orders, decisions, notices, directives, declarations or certificates it considers necessary,
- (g) make rules of procedure for the conduct of its business, for the giving of notice, for the service of documents, for hearing and conducting inquiries and for any other matters it considers necessary,

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

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

(3) The Board may decide for the purposes of this Act whether

(a) a person is an employer,

(b) a person is an employee,

(c) an organization or association is an employers' organization,

(d) an organization of employees is a trade union,

(e) an employer has given an employers' organization authority to bargain collectively on his behalf or has revoked that authority,

(f) a collective agreement has been entered into,

(g) a person is bound by a collective agreement,

(h) a person is a party to a collective agreement,

(i) a collective agreement has been entered into on behalf of any person,

(j) a collective agreement is in effect,

(k) the parties to a dispute have settled the terms to be included in a collective agreement,

(l) a group of employees is a unit appropriate for collective bargaining,

(m) a person has applied for membership or has terminated his membership in a trade union,

(n) a person is a member in good standing of a trade union,

(o) a person is included in or excluded from a unit,

(p) a strike has occurred or is lawful under this Act, or

(q) a lockout has occurred or is lawful under this Act,

and the Board's decision is final and binding.

(4) The Board has exclusive jurisdiction to exercise the powers conferred on it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or decision of the Board thereon is final and conclusive for all purposes, but the Board may, at any time, whether or not an application has commenced under section 18(2), reconsider any decision, order, directive, declaration or ruling made by it and vary, revoke or affirm the decision, order, directive, declaration or ruling.

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

(6) Neither the members of the Board nor any person employed in respect of the Board's activities is personally liable for anything done by him in good faith while acting in the course of his duties or employment under this or any other Act.

Inquiries,
investigations
and inspections

12(1) The Board or an officer may

(a) inspect and examine all books, payrolls and other records of an employer, an employee or any other person relating to employment or terms or conditions of employment;

(b) by notice in writing demand the production of any books, records, documents, papers, payrolls, contracts of employment or other records relevant to employment or terms and conditions of employment or relevant to the membership or constitution of a trade union or employers' organization, either forthwith or at a time, date and place specified in the notice;

(c) take extracts from or make copies of books, records, documents, papers, payrolls, contracts of employment and any other records relating to employment or terms or conditions of employment;

(d) require an employer, employee or any other person to make, furnish or produce full and correct statements either orally or in writing respecting employment or terms and conditions of employment, and may require the statements to be made on oath or to be verified by statutory declaration;

(e) post or require any employer, trade union, employee or other person to post any notices or other communications of the Board at the locations that the Board or officer, as the case may be, considers advisable.

(2) For the purposes of this Act, an officer may, in the execution of his duties,

(a) enter, inspect and examine at all reasonable times any premises or other place, other than a private dwelling, in which he has reason to believe that a person is employed,

(b) make any examination and inquiry necessary to ascertain whether the provisions of this Act or any order, decision, directive, declaration or notice of the Board or any written instructions of the Chairman, a vice-chairman or an officer have been complied with, and

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

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

Evidence

13(1) For the purposes of this Act, officers and members of the Board may administer oaths.

(2) Subject to subsection (3), the Board may, by order, summon and enforce the attendance of witnesses and compel them to give oral or

written evidence on oath and to produce the documents and things the Board considers requisite to the full investigation and consideration of matters within its jurisdiction in the same manner as a court of record may in civil cases.

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

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

(5) The Board

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

(b) is not bound by the law of evidence applicable to judicial proceedings.

(6) The Board is not required to divulge any information as to whether a person

(a) is or is not a member of a trade union,

(b) has or has not applied for membership in a trade union, or

(c) has or has not indicated in writing his selection of a trade union to be, or his opposition to the trade union's being, the bargaining agent on his behalf.

Conduct of votes **14**(1) For the purposes of this Act the Board may require, conduct or supervise votes.

(2) All votes required, conducted or supervised by the Board for the purposes of this Act shall be by secret ballot.

(3) The Board

(a) may on the request of an employer, employers' organization or trade union or on receipt of a petition signed by not fewer than 50% of the employees in a unit, and

(b) shall on the direction of the Minister,

conduct a vote on any question involving the relations between an employer and his employees in a unit or between an employers' organization and the employers in the employers' organization where it is desirable to have an expression of opinion of the majority of the employees or employers, as the case may be.

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

(a) make rules, including rules with respect to

(i) subject to subsection (2), the manner of taking or casting votes,

- (ii) the procedure to be followed before, during and after a vote,
- (iii) the fixing of the date, place and time of voting,
- (iv) the manner in which and the time at which a voters list is to be prepared, and
- (v) the disposal of ballots;

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

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

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

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

(f) direct all interested persons to refrain or desist from electioneering or from issuing any propaganda or both for any period of time prior to the date of a vote that the Board fixes.

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

Applications
to the Board

15(1) An employer, employers' organization, employee, trade union or other interested person may make a complaint in writing to the Board that there has been or is a failure to comply with any provision of this Act that is specified in the complaint.

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

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

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

(b) refer the matter to a panel of 1 or more members of the Board pursuant to section 10(1);

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

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

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

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

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

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

(7) Subject to section 16(2), when the Board makes a decision with respect to a complaint, reference or application, it may by order or directive give any remedy that is appropriate to the matter or necessary to ensure compliance with and enforcement of this Act.

Remedies

16(1) When the Board is satisfied after an inquiry that an employer, employers' organization, employee, trade union or other person has failed to comply with any provision of this Act that is specified in a complaint, the Board may issue a directive to rectify the act in respect of which the complaint was made and, without restricting the generality of the foregoing,

(a) may issue a directive or interim directive to the employer, employers' organization, employee, trade union or other person concerned to cease doing the act in respect of which the complaint was made;

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

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

(ii) to pay to an employee or former employee suspended or discharged contrary to this Act compensation not exceeding a sum that, in the opinion of the Board, would have been paid by the employer to the employee, together with a sum not exceeding the amount of interest paid by the employee on money borrowed to support himself and his family, during the time he was so suspended or discharged;

(iii) to reinstate or admit a person as a member of a trade union;

(iv) to pay to a person compensation not exceeding a sum that, in the opinion of the Board, is equivalent to the pecuniary or other penalty imposed on a person contrary to this Act;

(v) in respect of a contravention of section 145 or 146, to pay to an employee compensation not exceeding a sum that, in the opinion of the Board, is equivalent to the remuneration

that would have been paid to the employee by the employer if the employer had not contravened that section;

(c) in respect of a failure to comply with section 57,

(i) may issue a directive directing the employer, employers' organization, bargaining agent or authorized representative concerned to bargain in good faith and to make every reasonable effort to enter into a collective agreement, and

(ii) may prescribe the conditions under which collective bargaining is to take place;

(d) may, subject to subsection (2) but notwithstanding any other provision of this Act,

(i) certify or refuse to certify a trade union as the bargaining agent for a unit of employees;

(ii) revoke or refuse to revoke the certification of a bargaining agent;

(iii) revoke or refuse to revoke the bargaining rights of a bargaining agent voluntarily recognized.

(2) Subsection (1)(d) and section 15(7) do not authorize the Board to certify a trade union or to revoke the certification of a trade union unless the majority of employees voting at a representation vote conducted by the Board vote in favour of the certification or revocation of certification, as the case may be.

Board orders, etc. **17(1)** An order that the Board makes may be issued on its behalf by the Chairman or a vice-chairman.

(2) An order purporting to be signed by the Chairman or a vice-chairman on behalf of the Board shall be received in any court as prima facie proof

(a) of the order and its contents, and

(b) that the persons signing the order were authorized to do so,

without proof of the appointment or signature of the Chairman or vice-chairman.

(3) A copy of an order, having endorsed on it a certificate purporting to be signed by an officer stating that the copy is a true copy, shall be received in any court as prima facie proof of the order and its contents, without proof of the appointment or signature of the officer.

(4) If the Board is satisfied in any proceedings under this Act that a bona fide mistake has been made in naming or not naming a person, trade union, employer or employers' organization, the Board may direct that the name of the person, trade union, employer or employers' organization be substituted, added or deleted as a party to the proceedings.

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

(6) If any directive or order made by the Board is not complied with, the Board may, on the request of an employer, employers' organization, employee, trade union or other person affected by the directive or order, file a copy of the order or directive with the clerk of the Court and thereupon the directive is enforceable as a judgment or order of the Court.

(7) For the purpose of this section "order" includes a decision, declaration, directive, interim directive, order or certificate made by the Board.

Judicial review

18(1) Subject to subsection (2), no decision, order, directive, declaration, ruling or proceeding of the Board shall be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the Board or any of its proceedings.

(2) A decision, order, directive, declaration, ruling or proceeding of the Board may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the originating notice is filed with the Court and served on the Board no later than 30 days after the date of the decision, order, directive, declaration, ruling or proceeding, or reasons in respect thereof, whichever is later.

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

- (a) determine the issues to be resolved on the application,
- (b) limit the contents of the return from the Board to those materials necessary for the disposition of those issues, and
- (c) give directions to protect the confidentiality of the matters referred to in section 13(6).

Division 2

Employee and Employer Rights

Rights of employees and employers

19(1) An employee has the right

- (a) to be a member of a trade union and to participate in its lawful activities, and
- (b) to bargain collectively with his employer through a bargaining agent.

(2) An employer has the right

- (a) to be a member of an employers' organization and to participate in its lawful activities,
- (b) to bargain collectively with his employees, and
- (c) to conduct collective bargaining through an employers' organization.

Discrimination,
etc.

20 No employer or trade union or any person acting on their behalf shall discriminate against a person in regard to employment or membership in a trade union, or intimidate or coerce a person or impose a pecuniary or other penalty on a person, because he

(a) has testified or otherwise participated in or may testify or otherwise participate in a proceeding authorized or permitted under a collective agreement or in a proceeding under this Act,

(b) has made or is about to make a disclosure that he may be required to make in a proceeding authorized or permitted under a collective agreement or in a proceeding under this Act, or

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

Right of
dismissed
employee

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

Division 3 Trade Unions

Filing of
constitution, etc.,
of trade union

22(1) In accordance with the rules and procedures established by the Board, a trade union shall file with the Board

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

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

(2) The trade union shall send to the Board any changes to the information supplied under subsection (1) as soon as possible after the change is made and in any event when required to do so by the Board.

Capacity of
trade union

23(1) For the purposes of this Act, a trade union is capable of

(a) prosecuting and being prosecuted, and

(b) suing and being sued.

(2) A trade union and its acts shall not be deemed to be unlawful by reason only that one or more of its objects or purposes are in restraint of trade.

Suspension or
expulsion from
trade union

24 No trade union shall expel or suspend any of its members or take disciplinary action against or impose any form of penalty on any person for any reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union, unless that person has been

(a) served personally or by double registered mail with specific charges in writing,

(b) given a reasonable time to prepare his defence,

(c) afforded a full and fair hearing, including the right to be represented by counsel, and

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

Deduction of
union dues

25(1) An employee may, in writing, authorize his employer to deduct from wages due to him an amount payable by that employee to a trade union for

(a) union dues, and

(b) initiation fees not exceeding an amount equivalent to 1 month's union dues.

(2) The employer shall, from wages due to the employee, make the deductions authorized by the employee, and the authorization

(a) is effective only for the amount or the percentage of the wages specified therein, and

(b) continues in force for at least 3 months and thereafter until revoked in writing by the employee.

(3) The employer shall by the 15th day of each month remit to the trade union named in the authorization

(a) the dues deducted for the preceding month, and

(b) a written statement of the name of the employee for whom the deduction was made and of the amount or percentage of the employee's wages of each deduction,

until the authorization is revoked in writing by the employee and the revocation is delivered to the employer.

(4) On receipt of a revocation of an authorization to deduct union dues, the employer shall immediately give a copy of the revocation to the trade union concerned.

Fees for
temporary card

26 If a trade union issues a temporary card, document or other permit to a person who is not a member of the trade union, the dues or fees charged each month by the trade union for the temporary card, document or other permit shall not exceed an amount equivalent to the dues or fees payable by a member of the trade union for the same period.

Employees to be
union members

27(1) Subject to subsection (2), nothing in this Act prevents a trade union from continuing an existing collective agreement or entering into a new collective agreement with an employer or employers' organization whereby all the employees or any unit of employees of the employer or of 1 or more employers represented by the employers' organization are required to be members of a trade union.

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

(a) objects to joining a trade union, or

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

the Board may order that the provisions of a collective agreement of the type referred to in subsection (1) do not apply to the employee

and that the employee is not required to join the trade union, to be or to continue to be a member of the trade union, or to pay any dues, fees or assessments to the trade union, if amounts equal to any initiation fees, dues or other assessments are paid by the employee to, or are remitted by the employer to, a charitable organization agreed on by the employee and the trade union.

(3) If the employee and the trade union fail to agree on a charitable institution for the purpose of subsection (2), the Board may designate a charitable organization registered as a charitable organization in Canada under Part I of the *Income Tax Act* (Canada) to which the amounts referred to in that subsection must be paid or remitted.

Division 4

Employers' Organizations

Capacity of employers' organization

28 For the purposes of this Act, an employers' organization is capable of

- (a) prosecuting and being prosecuted, and
- (b) suing and being sued.

Division 5

Certification

Applications for certification

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

Evidence in support of application for certification

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

- (a) at least 40% of the employees in the unit applied for, by
 - (i) maintaining membership in good standing in the trade union, or
 - (ii) applying for membership in the trade union and paying on their own behalf a sum of not less than \$2 not longer than 90 days before the date the application for certification was made,

or both, have indicated their support for the trade union, or

- (b) at least 40% of the employees in the unit applied for have, not longer than 90 days before the date the application for certification was made, indicated in writing their selection of the trade union to be the bargaining agent on their behalf.

Inquiry into certification application

31(1) Before granting an application for certification the Board shall satisfy itself, after such investigation as it considers necessary, that

- (a) the applicant is a trade union,
- (b) the application is timely,
- (c) the unit applied for, or a unit reasonably similar thereto, is an appropriate unit for collective bargaining,

(d) the employees in the unit the Board considers an appropriate unit for collective bargaining have voted, at a representation vote conducted by the Board, to select the trade union as their bargaining agent, and

(e) the application is not prohibited by section 35.

(2) Before conducting a representation vote the Board shall satisfy itself, on the basis of the evidence submitted in support of the application and the Board's investigation in respect of that evidence, that at the time of the application for certification the union had the support, in the form set out in section 30(a) or (b), of at least 40% of the employees in the unit applied for.

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

Appropriate unit

32(1) In processing an application for certification,

(a) the Board may accept the unit applied for if, in the opinion of the Board, that unit is an appropriate unit for collective bargaining, or

(b) the Board may

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

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

(iii) do any other things it considers appropriate,

if, in the opinion of the Board, any altered or amended unit is reasonably similar to the unit applied for and is appropriate for collective bargaining.

(2) Certifications for firefighters shall be granted on the basis that all firefighters of an employer who hold ranks lower than that of deputy chief shall be included in 1 bargaining unit.

Joint application
by trade unions

33(1) Two or more trade unions that together claim to have been selected by at least 40% of the employees in a unit that the trade unions consider appropriate for collective bargaining may join in an application for certification as a bargaining agent.

(2) When 2 or more trade unions join in an application in accordance with subsection (1), this Division applies to the trade unions in respect of the joint application and to all matters arising from the joint application as if the application had been made by 1 trade union.

Timeliness of
application for
certification

34(1) No application for certification shall be made without the Board's consent

(a) until at least 60 days after the applicant has complied with section 22(1), or

(b) while a lawful strike or lawful lockout is in effect.

- (2) An application for certification may be made,
- (a) if no collective agreement or certification of a bargaining agent is in effect in respect of any employees in the unit, at any time,
 - (b) if a bargaining agent has been certified in respect of any of the employees in the unit, at any time after the expiration of 10 months from the date of the certification of the bargaining agent, unless a collective agreement has been entered into by the bargaining agent,
 - (c) if the certification of a bargaining agent in respect of any of the employees in the unit is questioned or reviewed by the Court, at any time after the expiration of 10 months from the date of the final disposition of the question or review, unless the Court quashes the decision of the Board to certify the bargaining agent,
 - (d) if a collective agreement for a term of 2 years or less is in force in respect of any of the employees in the unit, at any time in the 2 months immediately preceding the end of the term of the collective agreement, or
 - (e) if a collective agreement for a term of more than 2 years is in force in respect of any of the employees in the unit, at any time
 - (i) in the 11th or 12th month of the 2nd or any subsequent year of the term, or
 - (ii) in the 2 months immediately preceding the end of the term.
- (3) Notwithstanding subsection (2), no application shall be made under clause (e)(i) of that subsection unless the application is made at least 10 months prior to the end of the term of the collective agreement.

Prohibitions on certification

35(1) A trade union shall not be certified as a bargaining agent if its administration, management or policy is, in the opinion of the Board,

- (a) dominated by an employer, or
- (b) influenced by an employer so that the trade union's fitness to represent employees for the purposes of collective bargaining is impaired.

(2) A trade union shall not be certified as a bargaining agent if, in the opinion of the Board, picketing of the place of employment of the employees affected, or elsewhere, directly resulted in

- (a) employees becoming members of the trade union,
- (b) employees applying for membership in the trade union, or
- (c) employees indicating in writing their selection of the trade union to be the bargaining agent on their behalf.

Certification

36 When the Board is satisfied with respect to the matters referred to in section 31(1) and satisfied, after considering any other relevant matter, that the trade union should be certified, the Board shall grant a certificate to the applicant trade union naming the employer and

describing the unit in respect of which the trade union is certified as bargaining agent.

Effect of certification

37(1) When a trade union becomes a certified bargaining agent, it

(a) has exclusive authority to bargain collectively on behalf of the employees in the unit for which it is certified and to bind them by a collective agreement, and

(b) immediately replaces any other bargaining agent for employees in the unit for which it is certified.

(2) When a trade union becomes a certified bargaining agent for employees in a unit, the certification of any trade union previously certified as the bargaining agent for any employees in the unit is revoked to the extent that the certification relates to those employees.

(3) When a trade union becomes a certified bargaining agent for employees in a unit and at the time of certification a collective agreement is in force respecting those employees, the trade union

(a) becomes a party to the collective agreement in place of the bargaining agent that was a party to the collective agreement in respect of the employees in the unit, and

(b) may, insofar as the collective agreement applies to the employees and notwithstanding anything contained in the collective agreement, terminate the agreement at any time by giving the employer at least 2 months' notice in writing.

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

Consolidation of certificates

38(1) One or more certified bargaining agents may apply to the Board for the consolidation of certificates of 1 or more bargaining agents into a consolidated certificate.

(2) When the Board, after any inquiry it considers necessary, is satisfied that the certificates of the bargaining agents should be consolidated, the Board shall issue a consolidated certificate

(a) naming the trade union or trade unions as the certified bargaining agent or agents,

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

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

(3) When a consolidated certificate is issued, the Board may declare which collective agreements, if any, shall continue in force and which collective agreements, if any, shall terminate.

Division 6
Voluntary Recognition

Voluntary
recognition

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

Collective
bargaining with
voluntarily
recognized
trade union

40(1) An employer who is a party to or bound by a collective agreement entered into as a result of voluntary collective bargaining, if served with a notice to bargain collectively with a trade union in accordance with section 56(2), may not refuse to bargain collectively in accordance with the notice unless, at least 6 months prior to the expiry date set out in the collective agreement the employer served the trade union with notice of his intention to terminate his recognition of the trade union and to refuse to bargain collectively.

(2) If a trade union receives a notice under subsection (1), the trade union may apply to the Board to become certified for the unit to which the notice relates, notwithstanding section 34(2)(d) or (e).

Extension of
certificate

41 Where a trade union

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

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

(c) is served with a notice of intention to terminate recognition pursuant to section 40 in respect of those other employees,

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

Division 7
Modification of Bargaining Rights

Modification of
certification of a
bargaining agent

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

(a) the former certificate no longer appropriately describes the circumstances of collective bargaining between the parties,

(b) the modification is not such as may call into question the union's majority support within the bargaining unit, and

(c) it is otherwise appropriate to make the modification.

Effect of sale
of business

43(1) When a business or undertaking or part of it is sold, leased, transferred or merged with another business or undertaking or part of it, or otherwise disposed of so that the control, management or supervision of it passes to the purchaser, lessee, transferee or person acquiring it, that purchaser, lessee, transferee or person is, where there have been proceedings under this Act, bound by those proceed-

ings and the proceedings shall continue as if no change had occurred, and

(a) if a trade union is certified, the certification remains in effect and applies to the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it, and

(b) if a collective agreement is in force, the collective agreement binds the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it as if the collective agreement had been signed by him.

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

(a) the Board may determine and declare which trade union or trade unions shall be the bargaining agent or agents for a unit or units of employees of the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it,

(b) if a trade union or trade unions are certified with respect to the business or undertaking or part of it, or with respect to the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it, the Board may amend or revoke any certificate and determine and declare that 1 or more certificates or certificates as amended are in effect or remain in effect and apply to the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it,

(c) if 1 or more collective agreements are in force with respect to the business or undertaking or part of it, or with respect to the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it, the Board may cancel any of those agreements or amend any of those agreements with respect to the employees covered by the agreements and determine and declare that 1 or more collective agreements or collective agreements as amended are in effect or remain in effect and bind the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it, and

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

Spin-offs

44 On the application of an employer or a trade union affected, when, in the opinion of the Board, associated or related activities or businesses, undertakings or other activities are carried on under common control or direction by or through more than 1 corporation, partnership, person or association of persons, the Board may declare the corporations, partnerships, persons or associations of persons to be 1 employer for the purposes of this Act.

Governing bodies **45(1)** In this section, “governing body” means

- (a) a city, town, new town, village or summer village,
- (b) a municipal district or county,
- (c) a board of trustees of a school district or division,
- (d) a district board as defined in the *Hospitals Act*, or
- (e) the owner or operator of a non-district hospital as defined in the *Hospitals Act*.

(2) When a governing body is incorporated or established and replaces or takes the place in whole or in part of another or other governing bodies or when 1 or more governing bodies are in whole or in part formed into, incorporated into or annexed to another governing body or governing bodies, the Board may on the application of any governing body or trade union affected

- (a) declare which governing body is bound by proceedings under this Act,
- (b) determine whether the employees concerned constitute 1 or more appropriate units for collective bargaining,
- (c) declare which trade union or trade unions, if any, shall be the bargaining agent or agents on behalf of the employees,
- (d) amend, to the extent the Board considers necessary, any certificate issued to any trade union or any bargaining unit defined in any collective agreement, and
- (e) declare which collective agreement, if any, shall continue in force and to what extent it shall continue in force and which collective agreement, if any, shall terminate,

and before disposing of the application under this subsection, the Board may make any inquiry, require the production of any evidence and the doing of any things or conduct any votes that it considers appropriate.

Successor
trade union

46(1) When a trade union claims that, by reason of a merger or amalgamation or a transfer of jurisdiction of a trade union, it is the successor of a trade union that at the time of the merger, amalgamation or transfer of jurisdiction was the bargaining agent for a unit of employees of an employer, the Board in any proceedings before it or on the application of any person or trade union concerned may declare that the successor trade union has acquired the rights, privileges and duties under this Act of its predecessor.

(2) Before issuing a declaration under subsection (1), the Board may make any inquiries, require the production of any evidence or conduct any votes that it considers appropriate.

(3) When the Board makes a declaration under subsection (1), the successor trade union shall be deemed to have acquired the rights, privileges and duties of its predecessor, whether under a collective agreement or otherwise.

Division 8
Revocation of Bargaining Rights

- Definition **47** In this Division, “bargaining rights” means those rights held by a trade union with respect to a unit of employees of an employer,
- (a) arising out of a certification granted by the Board, or
 - (b) arising as a result of the employer’s having voluntarily entered into a collective agreement with the trade union, and any subsisting obligation to bargain with the trade union arising as a result of any notice to bargain given pursuant to this Act or the collective agreement, unless the employer has given notice of his intention to terminate recognition pursuant to section 40(1), and only insofar as the dispute arising out of any notice to bargain continues.
- Application for revocation of bargaining rights **48(1)** An application to revoke bargaining rights may be made by the trade union, the employees within the unit, or the employer or former employer to whom the bargaining rights relate.
- (2) If an application for revocation of bargaining rights is made by the employees within the unit, the application shall be supported by evidence, in a form satisfactory to the Board, that at least 40% of the employees within the unit have indicated in writing their support for the revocation of the bargaining rights of the trade union.
- Timeliness of application for revocation **49(1)** No application for revocation of bargaining rights shall be made without the Board’s consent while a lawful strike or lawful lockout is in effect.
- (2) An application for revocation of bargaining rights may be made by the trade union at any time when there is no collective agreement in effect.
- (3) An application for revocation of bargaining rights may be made by the employees in the unit
- (a) if no collective agreement is in force in respect of any of the employees in the unit, at any time after the expiration of 10 months from the date of the certification of the trade union, and at any time if the trade union is not certified,
 - (b) if the certification of a bargaining agent in respect of any of the employees in the unit is questioned or reviewed by the Court of Appeal, at any time after the expiration of 10 months from the date of the final disposition of the question or review, unless the Court quashes the decision of the Board to certify the bargaining agent,
 - (c) if a collective agreement for a term of 2 years or less is in force in respect of any of the employees in the unit, at any time in the 2 months immediately preceding the end of the term of the collective agreement, or

(d) if a collective agreement for a term of more than 2 years is in force in respect of any of the employees in the unit, at any time

(i) in the 11th or 12th month of the 2nd or any subsequent year of the term, or

(ii) in the 2 months immediately preceding the end of the term.

(4) Notwithstanding subsection (3), no application shall be made under clause (d)(i) of that subsection unless the application is made at least 10 months prior to the end of the term of the collective agreement.

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

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

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

Inquiry into
revocation
application

50(1) Before granting an application for revocation the Board shall satisfy itself, after such investigation as it considers necessary, that

(a) the application is timely,

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

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

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

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

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

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

Revocation of
bargaining rights

51(1) When the Board is satisfied with respect to the matters referred to in section 50(1) and satisfied, after considering any other relevant matter, that the bargaining rights of the trade union should be re-

voked, the Board shall grant a declaration that the trade union's bargaining rights are revoked, and revoke any certification.

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

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

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

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

Revocation
without
application

52(1) Notwithstanding sections 48 to 51(1), the Board may at any time give notice of its intention to revoke the bargaining rights of a trade union to the trade union and the employer or employers' organization affected by the proposed revocation.

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

(3) The Board may make rules governing the form of notice to be given under this section, including, in cases where the Board has reason to believe that the trade union, employer or employers' organization is no longer in existence, rules dispensing with notice.

Division 9

General Provisions on Certification and Voluntary Recognition

Continuation
of collective
agreement not a
bar to certain
applications

53 When notice to commence collective bargaining has been served by either party to a collective agreement and by operation of law or by agreement of the parties the agreement continues beyond the date fixed for the termination of the agreement, the continuation is not a bar to an application for

(a) certification as a bargaining agent,

(b) revocation of the certification of a bargaining agent, or

(c) a declaration that a bargaining agent is no longer entitled to bargain collectively.

Overriding
provision
concerning
application

54 Notwithstanding anything in this Act, if an application for

(a) certification as a bargaining agent,

(b) revocation of the certification of a bargaining agent, or

(c) a declaration that a bargaining agent is no longer entitled to bargain collectively,

has been refused by the Board or withdrawn by the applicant, the applicant shall not, without the consent of the Board, make the same or substantially the same application until after the expiration of 90 days from the date of the withdrawal or refusal.

Representation
vote

55(1) A representation vote shall be decided on the basis of a majority of the ballots cast by employees in the bargaining unit.

(2) For the purposes of conducting any representation vote, the Board may deem a person to be an employee or not to be an employee on a given date where in the Board's opinion it is appropriate to do so.

Division 10 Collective Bargaining

Notice to
commence
collective
bargaining

56(1) When a certified bargaining agent, an employer or an employers' organization wishes to commence collective bargaining,

(a) the certified bargaining agent may serve on the employer or employers' organization, or

(b) the employer or employers' organization may serve on the certified bargaining agent,

a notice to commence collective bargaining.

(2) Subject to section 40(1), when a collective agreement is in effect, either party to the collective agreement may, not less than 60 days and not more than 120 days preceding the expiry of the term of the collective agreement or within any longer period that may be provided for in the collective agreement, by notice in writing, require the other party to the collective agreement to commence collective bargaining.

Commencement
of bargaining

57(1) When a notice to commence collective bargaining has been served under this Division, the bargaining agent and the employer or employers' organization, not more than 30 days after notice is served, shall

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

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

(2) The bargaining agent and the employer or employers' organization shall exchange bargaining proposals within 15 days of the first time they meet for the purpose of collective bargaining or within any longer time agreed on by the parties.

(3) No employer, employers' organization or bargaining agent and no authorized representative acting on behalf of any of them, after having served or having been served with a notice to commence collective bargaining pursuant to this Division, shall refuse or fail to comply with subsections (1) and (2).

Representatives
for collective
bargaining

58(1) A notice to commence collective bargaining must contain or be accompanied by a statement showing the name and address of the person or persons resident in Alberta who are authorized to do all of the following on behalf of the employer, employers' organization or bargaining agent:

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

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

(3) In addition to the statements referred to in subsections (1) and (2), the parties to the collective bargaining shall exchange the names and addresses of the persons who comprise the bargaining committees appointed to bargain on behalf of the parties.

(4) The bargaining committee appointed to bargain on behalf of a party must include at least 1 representative from the employers or trade union locals, as the case may be, on whose behalf the negotiations are being conducted.

(5) Any changes with respect to the persons referred to in subsections (1) to (3) shall forthwith be given to the other party to the collective bargaining.

(6) On the written request of the other party to the collective bargaining, the employer, employers' organization or bargaining agent shall advise the other party whether the authority to bargain of the person or group of persons referred to in subsections (1) to (3) is subject to ratification and, if so, by whom.

(7) If a party to the collective bargaining has advised the other party of a ratification procedure pursuant to subsection (6), the procedure shall not be changed unless the other party is notified in writing of the change.

(8) All notifications required by this section shall, on request, be provided to the Director or a mediator.

Authorization
of employers'
organization

59(1) When an employers' organization serves notice to commence collective bargaining, the notice must contain or be accompanied by

- (a) a current list of the names and addresses of the employers on whose behalf the employers' organization is authorized to bargain collectively, and
- (b) a copy of each authorization given by the employers.

(2) When an employers' organization is served with a notice to commence collective bargaining, it shall, within 10 days after the day on

which it receives the notice, serve on the bargaining agent the lists and authorizations referred to in subsection (1).

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

(4) On service of the lists and authorizations in accordance with subsection (1) or (2), as the case may be, the employers' organization shall be deemed to be bargaining collectively for all the employers who are named in the list and who gave their authorization.

(5) An employer may be added to the list of employers on whose behalf the employers' organization is deemed to be bargaining collectively if

(a) the bargaining agent and the employers' organization agree to add the employer to the list, and

(b) an authorization of the employer is served forthwith on the bargaining agent and on the Director.

(6) An authorization under this section may be given by a director or other official of the employer and thereupon that authorization shall be deemed to be the authorization of the employer.

(7) When an employer has authorized an employers' organization to bargain collectively on his behalf, the authorization may not be revoked until

(a) a collective agreement has been entered into between the employers' organization and the bargaining agent, or

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

whichever first occurs.

Service during
collective
bargaining

60(1) Subject to the other provisions of this Act and any rules made by the Board under section 11(2)(g), anything that is required or permitted to be served under this Division or Divisions 11 to 13 shall be deemed to be properly served if it is 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 some person who appears to be at least 18 years old, or

(ii) by sending it to him by registered or certified mail at his last known postal address;

(b) in the case of service on a corporation,

(i) personally on a director, manager or officer of the corporation or by leaving it for him at his address with some person who appears to be at least 18 years old, or

(ii) by leaving it at or by sending it by registered or certified mail to the registered office of a corporation or to the office of the attorney of an extra-provincial corporation;

- (c) in the case of service on a trade union or employers' organization,
 - (i) personally on the president, secretary or an officer of the trade union or employers' organization or by leaving it at his address with some person who appears to be at least 18 years old, or
 - (ii) by sending it by registered or certified mail to the address of the president, secretary or an officer of the trade union or employers' organization;
- (d) in the case of service on an employer, employers' organization or trade union that is represented by a bargaining committee,
 - (i) personally on the chairman or any member of the bargaining committee or by leaving it at his address with a person who appears to be at least 18 years old, or
 - (ii) by sending it by registered or certified mail to the address of the chairman or any member of the bargaining committee.
- (2) Service on the chairman or a member of the bargaining committee of an employer or employers' organization is also good service on the employers represented by that bargaining committee.
- (3) Service on the chairman or a member of the bargaining committee of a trade union is also good service on the trade union and on the employees represented by that trade union.
- (4) If it is necessary to prove service of anything under this section,
 - (a) if service is effected personally, the date on which it is served is the date of service,
 - (b) if service is effected by registered mail or certified mail, service of it shall be deemed to have occurred 7 days after the date of mailing, and
 - (c) if service is effected by leaving it with a person, service of it shall be deemed to have been made on the date it was so left.

Division 11

Mediation and Enhanced Mediation

Informal mediation

61 Any time after a notice to commence collective bargaining is served, either or both parties to the collective bargaining may request the Director to provide the services of a mediator to informally assist in the negotiation process.

Appointment of mediator

62(1) Any time after a notice to commence collective bargaining is served under section 56, whether or not a mediator has been made available under section 61,

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

(b) the Minister may require the Director to appoint a mediator, to assist the parties in resolving the dispute.

- (2) The Director
 - (a) may appoint a mediator if he receives a request under subsection (1)(a), and
 - (b) shall appoint a mediator if he receives a request under subsection (1)(b).
- (3) The mediator shall, in any manner that he considers fit, inquire into the dispute and endeavour to effect a settlement.
- (4) During his inquiry the mediator shall
 - (a) hear any representations made to him by the parties to the dispute,
 - (b) mediate between the parties to the dispute, and
 - (c) encourage the parties to the dispute to effect a settlement.
- (5) If no settlement is effected between the parties within 14 days of the later of
 - (a) the date of the appointment of the mediator under subsection (2), or
 - (b) if a vote is conducted on an offer under section 66, the date on which the parties are notified of the results of the vote
 or within any longer period agreed on by the parties to the dispute or fixed by the Director, the mediator shall
 - (c) recommend terms for settlement to the parties for them to accept or reject within a time fixed by the mediator, or
 - (d) notify the parties that he does not intend to make a recommendation under clause (c).
- (6) There shall be a cooling-off period of 14 days from the latest of
 - (a) the date on which the mediator notifies the parties that he does not intend to recommend terms of settlement,
 - (b) the date fixed by the mediator for acceptance or rejection of the recommendations of the mediator under subsection (5)(c), and
 - (c) if a vote is requested under section 63, the date on which the parties are notified of the results of the vote.

Collective
agreement after
recommendations

- 63(1)** If the parties to a dispute accept the recommendations of the mediator under section 62(5)(c), the parties shall notify the mediator accordingly and the recommendations are binding on the parties and shall be included in the terms of a collective agreement.
- (2) If a party rejects the recommendations of the mediator under section 62(5)(c), the party shall notify the mediator accordingly.
- (3) If one party to the dispute accepts the recommendations of the mediator under section 62(5)(c) within the time fixed by the mediator under section 62(5)(c), the party may request the Board to conduct a vote on the acceptance or rejection of the recommendations by the other party in accordance with Division 12.

(4) A party to a dispute that accepts the recommendations made by the mediator pursuant to section 62(5)(c) ceases to be bound by the acceptance

(a) if a vote of the other party is requested, at the time a vote rejecting the proposal is announced under section 67, or

(b) if no vote is requested, at the expiry of the time fixed for the other party's acceptance under section 62(5)(c)

unless the other party also accepts the terms of settlement.

Questions on recommendations

64 If a question arises requiring clarification of the recommendations of a mediator, the mediator, at the request of one or both parties, may consider and decide the question.

Division 12 Votes on Proposals

Vote on mediator's recommendations

65(1) When the Board receives a request from a party to conduct a vote on a mediator's recommendations under section 63(3), it shall conduct a vote or poll in accordance with this Division.

(2) If the mediator has been requested to consider and decide a question under section 64, the Board may delay the conduct of the vote or poll under section 63(3) until the mediator decides the question.

Vote on offer

66(1) At any time after the exchange of proposals under section 57, either party to the collective bargaining may apply to the Board to conduct a vote as to the acceptance or rejection of its most recent offer presented to the other party.

(2) If a party applies to the Board under subsection (1), the Board shall, if it is satisfied that the offer, if accepted, could form a collective agreement, conduct a vote or poll in accordance with this Division.

(3) Each party is entitled to apply for a vote or poll under this section only once during each dispute.

Conduct of vote

67(1) On receipt of a request under section 63(3) or 66(1) the Board shall

(a) in the case where the party with respect to which the vote is to be conducted is a bargaining agent, conduct a vote of the employees affected by the dispute who are represented by the bargaining agent,

(b) in the case where the party with respect to which the vote is to be conducted is an employers' organization, conduct a vote of the employers affected by the dispute who are represented by the employers' organization, and

(c) in the case where the party with respect to which the vote is to be conducted is an employer, poll the employer

on the acceptance or rejection of the recommendations of the mediator or the offer, as the case may be.

(2) When the Board polls an employer or conducts a vote under subsection (1), it shall do so as soon as practicable and shall notify the parties to the dispute and the mediator, if any, of the results of the vote or poll on its conclusion.

(3) If an employer who is polled or a majority of those employees or employers who vote under this section and the other party to the dispute are in favour of accepting the recommendations of the mediator or the offer, as the case may be, the recommendations or offer is binding on the parties and shall be included in the terms of a collective agreement.

(4) Notwithstanding subsection (3), if the ratification procedure referred to in section 58(6) for an employers' organization requires ratification by the employers on a weighted vote system, a vote for acceptance or rejection of the recommendations of the mediator or the offer, as the case may be, by the employers shall be determined on the basis of that weighted vote system.

Division 13 **Strikes and Lockouts**

- | | |
|---|---|
| No strike unless permitted | 68 No employees, no bargaining agent and no person acting on their behalf shall strike or cause a strike or threaten to strike or cause a strike unless that strike is permitted by this Act. |
| No lockout unless permitted | 69 No employer, no employers' organization and no person acting on their behalf shall lock out or cause a lockout or threaten to lock out or to cause a lockout unless that lockout is permitted by this Act. |
| Conditions under which strike permitted | 70 An employee, bargaining agent or person acting on behalf of a bargaining agent is entitled to strike or cause a strike if <ol style="list-style-type: none">(a) no collective agreement is in force, other than as a result of section 127,(b) a strike vote was held under this Division<ol style="list-style-type: none">(i) that remains current,(ii) for which the results have been filed with the Board, and(iii) that resulted in a majority in favour of a strike,(c) strike notice is given in accordance with this Division,(d) the strike commences on the day and at the time and location specified in the strike notice or, if an amendment to the strike notice is agreed to and is permitted under this Division, on the day and at the time and location specified in the amended strike notice, and(e) in a case where a disputes inquiry board is established before the commencement of the strike, the time limits referred to in section 102(3) have expired. |

Conditions under which lockout permitted

71 An employer or employers' organization is entitled to cause a lockout if

- (a) no collective agreement is in force, other than as a result of section 127,
- (b) a lockout vote was held under this Division
 - (i) that remains current,
 - (ii) for which the results have been filed with the Board, and
 - (iii) that resulted in a majority in favour of a lockout,
- (c) lockout notice is given in accordance with this Division,
- (d) the lockout commences on the day and at the time and location specified in the lockout notice or, if an amendment to the lockout notice is agreed to and is permitted under this Division, on the day and at the time and location specified in the amended lockout notice, and
- (e) in a case where a disputes inquiry board is established before the commencement of the lockout, the time limits referred to in section 102(3) have expired.

Application to Board to supervise strike or lockout vote

72(1) A bargaining agent that is a party to a dispute may apply to the Board to supervise a strike vote, and an employer or employers' organization that is a party to a dispute may apply to the Board to supervise a lockout vote.

(2) No strike or lockout vote shall be supervised while a collective agreement is in force unless that agreement is in force pursuant to section 127.

(3) No strike or lockout vote shall be supervised until a mediator has been appointed under section 62 and the cooling-off period referred to in subsection (6) of that section has expired.

Supervision of strike or lockout vote

73(1) On receipt of an application under section 72 to supervise a strike vote, the Board shall,

- (a) if the bargaining agent is in dispute with a single employer, forthwith supervise a vote of the employees of the employer affected by the dispute, or
- (b) if the bargaining agent is in dispute with an employers' organization, forthwith supervise a vote of the employees of the employers affected by the dispute

on whether or not the employees wish to strike.

(2) On receipt of an application under section 72 to supervise a lockout vote, the Board shall

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

on whether or not the employer or employers wish to lock out.

- (3) The results of a strike vote or a lockout vote shall be determined on the basis of a majority of those persons who actually vote.
- (4) If a question arises with respect to a strike vote or lockout vote, it shall be referred to the Board, whose decision is final and binding.
- (5) In this section,
 - (a) “employees of the employer affected by the dispute” means employees of the employer employed in the unit affected by the dispute at any time during the 60 days preceding the date, or the last date if there is more than 1, fixed for taking the strike vote;
 - (b) “employees of the employers affected by the dispute” means employees of the employers employed in the units affected by the dispute at any time during the 60 days preceding the date, or the last date if there is more than 1, fixed for taking the strike vote;
 - (c) “employers affected by the dispute” means employers affected by the dispute who have employed any employees referred to in clause (b) entitled to vote at a vote under subsection (1) at any time during the 60 days preceding the date, or the last date if there is more than 1, fixed for taking the lockout vote.

Expiry of vote and right to strike or lockout

- 74(1)** If no strike or lockout occurs within 120 days of the day on which the strike vote or lockout vote was conducted, the strike or lockout vote shall be deemed to be void and no person shall strike or lock out or cause a strike or lockout unless a new strike vote or lockout vote has been conducted in accordance with this Division.
- (2) Notwithstanding subsection (1), no strike or lockout vote may be taken with respect to a dispute after the expiry of 2 years from the end of the cooling-off period referred to in section 62(6).
- (3) If a strike or lockout vote is prohibited under subsection (2), the dispute shall be deemed to no longer exist.

Service of strike or lockout notice

- 75(1)** A bargaining agent shall not cause a strike unless it
 - (a) personally serves a written strike notice on the employer or employers’ organization that is a party to the dispute giving at least 72 hours’ notice of the date, time and initial location at which the strike will commence, and
 - (b) forthwith after service of the notice referred to in clause (a), notifies the mediator appointed under section 62, giving him notice of the date, time and initial location at which the strike will commence.
- (2) An employer or an employers’ organization shall not lock out or cause a lockout unless it
 - (a) personally serves a written lockout notice on the bargaining agent that is a party to the dispute giving at least 72 hours’ notice of the date, time and initial location at which the lockout will commence, and
 - (b) forthwith after service of the notice referred to in clause (a), notifies the mediator appointed under section 62, giving him no-

tice of the date, time and initial location at which the lockout will commence.

Strike or lockout notice extended by agreement

76(1) If the parties to a dispute agree in writing to do so, a strike notice or a lockout notice may be amended 1 or more times after it has been served by changing the date or time or both specified for the commencement of the strike or lockout.

(2) The mediator who was notified under section 75 shall be forthwith notified of any amendment to the strike notice or the lockout notice.

Strike or lockout notice becomes ineffective

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

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

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

the notice becomes ineffective and another notice must be served in accordance with section 75 before the party concerned strikes or locks out or causes a strike or lockout, as the case may be.

Settlement of strike affecting employers' organization

78(1) When a bargaining agent is entitled to cause a strike and wishes to do so in respect of an employers' organization, it shall cause the strike in respect of all employers affected by the dispute on whose behalf the employers' organization bargains collectively.

(2) When a strike commences affecting employers who authorized an employers' organization to bargain collectively on their behalf, the bargaining agent may, at any time after the strike commences, make a settlement with any employer.

Settlement of lockout called by employers' organization

79(1) When an employers' organization is entitled to cause a lockout and wishes to do so, all employers affected by the dispute on whose behalf the employers' organization bargains collectively shall participate in the lockout.

(2) When a lockout commences that affects employers who authorized an employers' organization to bargain collectively on their behalf, an employer may, at any time after the lockout commences, make a settlement with the bargaining agent.

Agreement re sections 78 and 79

80(1) If a settlement of a dispute is effected contrary to section 78 or 79, any agreement arising from that settlement is void and of no effect.

(2) A settlement under section 78 or 79 remains in effect until the earlier of

(a) the revocation of the bargaining rights of a trade union, and

(b) either

(i) the expiry of the term specified in the settlement, or

(ii) 1 year, if the term is unspecified.

Division 14

Regulation of Strikes, Lockouts and Picketing

Picketing

81(1) During a strike or lockout that is permitted under this Act, anyone with a direct interest in the dispute may, at the striking or locked-out employees' place of employment and without acts that are otherwise unlawful, peacefully persuade or endeavour to persuade anyone not to

- (a) enter the employer's place of business, operation or employment,
- (b) deal in or handle the products of the employer, or
- (c) do business with the employer.

(2) For the purpose of subsection (1), members of other locals of the trade union that is on strike or locked out shall be deemed to have a direct interest in the dispute.

(3) Except as provided in subsection (1), no trade union or other person shall, in connection with any labour relations difference or dispute, persuade or endeavour to persuade anyone not to

- (a) enter an employer's place of business, operation or employment,
- (b) deal in or handle the products of any person, or
- (c) do business with any person.

Refusal to work

82 No employee shall

- (a) refuse to perform work for his employer for the reason that other work was or will be performed or was not or will not be performed by any person or class of persons who were not or are not members of a trade union or a particular trade union, or
- (b) refuse to take delivery of goods from a carrier or refuse to assist the carrier in the loading of goods for shipment except where the carrier and his employees are engaged in a lawful strike or lawful lockout.

Board powers over unlawful strikes, etc.

83 Where the Board is satisfied that

- (a) a trade union called or authorized or threatened to call or authorize an unlawful strike,
- (b) an officer, official or agent of a trade union counselled, procured, supported or encouraged an unlawful strike or threatened an unlawful strike,
- (c) employees engaged in or threatened to engage in an unlawful strike,
- (d) any person has done or is threatening to do an act and the person knows or ought to know that, as a probable and reasonable consequence of that act, another person or persons will engage in an unlawful strike, or

(e) a trade union, employee or other person has contravened section 81 or 82,

the Board may, in addition to and without restricting any other powers under this Act, so declare and may direct what action, if any, a person, employee, employer, employers' organization or trade union and its officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or threat of an unlawful strike or the contravention of section 81 or 82.

Board powers over unlawful lockout, etc.

84 Where the Board is satisfied that

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

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

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

Effect of directive

85(1) A directive or interim directive to cease a strike or lockout that is not permitted under this Act, or any directive or interim directive under section 83 or 84, is binding on the employer, employers' organization, employee, trade union or other person to whom it is directed with respect to the strike or lockout referred to in the directive or interim directive and any future strike or lockout that occurs for the same or substantially the same reason.

(2) Notwithstanding section 17(6), the Board may file a copy of a directive or interim directive referred to in subsection (1) with the Court and thereupon the directive is enforceable as a judgment or order of the Court.

(3) Service of a directive or interim directive under section 83 or 84 in accordance with this Act or any rules or directives of the Board, in addition to being service of the directive or interim directive, shall be deemed to be service of the judgment or order of the Court under subsection (2) of this section when that directive or interim directive is filed with the Court.

Employment continues

86 No person ceases to be an employee within the meaning of this Act by reason only of his ceasing to work as a result of a lawful lockout or a lawful strike.

Reinstatement of employee

87(1) When a strike or lockout ends

(a) as a result of a settlement,

(b) on the termination of bargaining rights of the bargaining agent, or

(c) on the expiration of 2 years from the date the strike or lockout commenced,

any employee affected by the dispute whose employment relationship with the employer has not been otherwise lawfully terminated is

entitled, on request, to resume his employment with the employer in preference to any employee hired by the employer as a replacement employee for the employee making the request during the strike or lockout.

(2) The request of an employee under subsection (1) must be made in writing

(a) within 14 days of the date on which the employee learns that the strike or lockout has ended and in any case within 30 days of the date on which the strike or lockout ended, if the strike or lockout ends in the manner referred to in clause (a) or (b) of that subsection, or

(b) forthwith, if the strike or lockout ends in the manner referred to in clause (c) of that subsection.

(3) Nothing in subsection (1)

(a) prevents the parties to a dispute from agreeing on a mechanism for an orderly return to work within a reasonable period after a strike or lockout is over, or

(b) requires an employer to reinstate an employee where

(i) the employer no longer has persons engaged in performing work the same or similar to work that the employee performed prior to his cessation of work, or

(ii) there has been a suspension or discontinuance for cause of an employer's operations or any part thereof, but, if the employer resumes those operations, the employer shall first reinstate those employees who have requested a resumption of employment.

(4) An employer shall, on the request of any employee returning to work at the end of a strike or lockout, where there is no collective agreement in place, reinstate the employee in his former employment on any terms that the employer and the employee may agree on, and the employer in offering terms of employment shall not discriminate against the employee because of his exercising or having exercised any rights under this Act.

Jurisdiction
of court

88 No court shall grant any injunction or other process that has the effect of restraining a strike or lockout or restraining or limiting picketing in respect of a labour dispute to which this Act applies unless

(a) there is a reasonable likelihood of danger to persons or property, or

(b) resort to the Board is impractical in the circumstances, in which case the court may issue an order, which shall remain effective until such time as the Board is able to determine the matter.

Injunctions

89(1) Notwithstanding anything in this Act, the *Judicature Act* or any other Act, when there is a strike or lockout, no injunction before trial shall be granted ex parte to

(a) a party to the dispute, or

(b) any other person or party,

to restrain a party to the strike or lockout from doing any act in connection with the strike or lockout.

(2) Every affidavit intended to be used in support of an application for an interim injunction to restrain a person from doing any act in connection with a strike or lockout shall be confined to those facts that the deponent is able of his own knowledge to prove, and a copy of every such affidavit shall be served with the notice of motion.

(3) If members of a trade union are the defendants or intended defendants, the notice of motion may be served on an officer of the trade union or a member of it who is engaged in the activity proposed to be restrained or another person engaged in that activity.

(4) The notice of motion shall be served in sufficient time before the time fixed for the hearing, not being less than 4 hours in any event, to enable the person to attend at the hearing of the motion.

Division 15

Voluntary Interest Arbitration

Agreement
re voluntary
arbitration board

90(1) The parties to a dispute may agree in writing to refer the matters in dispute to a 1-member or 3-member voluntary arbitration board, whose decision will be binding.

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

Voluntary
arbitration board

91 If the parties who have entered into an agreement under section 90 do not appoint a 1-member or 3-member voluntary arbitration board, either party may notify the Minister, who shall serve notice on the parties to the dispute directing them to appoint a voluntary arbitration board in accordance with Division 20.

Powers of
voluntary
arbitration board

92(1) If a voluntary arbitration board is unable to effect a settlement within 20 days after a statement of the dispute is sent to the member of a 1-member board or the chairman of a 3-member board or any longer period that may be agreed on between the parties or fixed by the Minister, the voluntary arbitration board shall make an award dealing with all matters in dispute.

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

Division 16

Compulsory Interest Arbitration

Application and
prohibition
against strike and
lockout

93(1) This Division applies to the following:

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

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

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

(3) This Division applies notwithstanding any other provision of this Act.

Request for compulsory arbitration board

94(1) If a dispute affecting an employment to which this Division applies cannot be resolved, either or both parties to the dispute or the Minister may make a request for the appointment of a 3-member compulsory arbitration board, or the parties may jointly make a request for the appointment of a 1-member compulsory arbitration board, to

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

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

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

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

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

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

Establishment of compulsory arbitration board

95 When he receives a request for the appointment of a compulsory arbitration board, the Minister,

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

(b) if he is satisfied that the dispute is appropriate to refer to a compulsory arbitration board, may direct the parties to the dispute to appoint a 3-member or 1-member compulsory arbitration board in accordance with Division 20.

Terms of reference

96 When 3 persons are appointed to act as members of a 3-member compulsory arbitration board or 1 person is appointed to act as the member of a 1-member compulsory arbitration board, the Minister, by notice in writing to the chairman or member, as the case may be, shall forward a list of the items in dispute to be resolved by the compulsory arbitration board.

Methods of arbitration

97(1) On receipt of the list under section 96, if the compulsory arbitration board is unable to effect a settlement, it shall consider the position of the parties on each item in dispute and determine what method or combination of methods of arbitration shall be implemented to resolve any or all of the items in dispute.

(2) Without restricting the generality of subsection (1), the method or combination of methods of arbitration determined under that subsection may include the method of arbitration known as “final offer selection”.

Matters to be considered

98 To ensure that wages and benefits are fair and reasonable to the employees and employer and are in the best interest of the public, the compulsory arbitration board

(a) shall consider, for the period with respect to which the award will apply, the following:

(i) wages and benefits in private and public, and unionized and non-unionized, employment;

(ii) the continuity and stability of private and public employment, including

(A) employment levels and incidence of layoffs,

(B) incidence of employment at less than normal working hours, and

(C) opportunity for employment;

(iii) the general economic conditions in Alberta,

and

(b) may consider, for the period with respect to which the award will apply, the following:

(i) the terms and conditions of employment in similar occupations outside the employer’s employment taking into account any geographic, industrial or other variations that the board considers relevant;

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

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

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

Award

99(1) As soon as possible after a dispute is referred to the compulsory arbitration board, and in any case within

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

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

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

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

Incorporation
of award

100(1) If either of the parties to the dispute neglects or refuses to participate in the preparation of a collective agreement in accordance with the award of the compulsory arbitration board, the other party may prepare a collective agreement giving effect to

- (a) the award of the compulsory arbitration board, and
- (b) any other matters that are agreed on by the parties,

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

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

Reconvening
of compulsory
arbitration board

101(1) If a question arises concerning the award of a compulsory arbitration board within 30 days from the date on which the award was made, the Minister, at the request of one or both of the parties, may direct the member or chairman of the compulsory arbitration board to reconvene the compulsory arbitration board for the purpose of deciding the question.

(2) When the compulsory arbitration board makes its decision under subsection (1), it shall forward a copy of the decision to the Minister and the parties to the dispute, and the decision is binding on the parties and shall be included in the terms of a collective agreement.

Division 17

Disputes Inquiry Boards

Notice of
establishment of
disputes inquiry
board

102(1) The Minister may appoint a disputes inquiry board in accordance with Division 20 with respect to a dispute.

(2) The Minister shall serve a notice in writing of the appointment of a disputes inquiry board on the employer or employers' organization and the bargaining agent that are parties to the dispute.

(3) If the disputes inquiry board is established before the commencement of a lawful strike or lawful lockout, no strike or lockout shall commence until

- (a) 10 days after the Minister serves a copy of the recommendations of the disputes inquiry board on the parties, or
- (b) if the Board conducts a vote under section 104, until 72 hours after the Board notifies the parties of the results of that vote.

(4) The establishment of the disputes inquiry board after the commencement of a lawful strike or lawful lockout does not affect the strike or lockout, or its continuation.

Recommendations of disputes inquiry board

103(1) If a disputes inquiry board is unable to effect a settlement of a dispute within

- (a) 20 days of the date on which it is established, or
- (b) any longer time that may be agreed on by the parties to the dispute or fixed by the Minister,

the disputes inquiry board shall make recommendations with respect to each matter in dispute and send them to the Minister, who shall forthwith notify each party to the dispute of the recommendations.

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

Collective agreement after recommendations

104(1) If the parties to a dispute accept the recommendations of a disputes inquiry board, the recommendations are binding on the parties and shall be included in the terms of a collective agreement.

(2) Unless a party to the dispute notifies the Minister of its acceptance of the recommendations of the disputes inquiry board within 10 days after being served with a copy of the recommendations or, if the disputes inquiry board has reconvened under section 106, within 10 days after being served with a notification under that section, the Board shall,

- (a) in the case where the party is a bargaining agent, conduct a vote on the acceptance or rejection of the recommendations by the employees affected by the dispute who are represented by the bargaining agent,
- (b) in the case where the party is an employers' organization, conduct a vote on the acceptance or rejection of the recommendations by the employers affected by the dispute who are represented by the employers' organization, and
- (c) in the case where the party is an employer, poll the employer on his acceptance or rejection of the recommendations.

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

(4) If a majority of those employees or employers who vote under this section and the other party to the dispute are in favour of the recommendations of the disputes inquiry board, the recommendations are binding on the parties and shall be included in the terms of a collective agreement.

(5) Notwithstanding subsection (4), if the ratification procedure referred to in section 58(6) for an employers' organization requires ratification by the employers on a weighted vote system, a vote for acceptance or rejection of the recommendations of the disputes inquiry board by the employers shall be determined on the basis of that weighted vote system.

Incorporation
of award

105(1) If either party to the dispute neglects or refuses to participate in the preparation of a collective agreement in accordance with section 104, the other party may prepare a collective agreement giving effect to

- (a) the recommendations of the disputes inquiry board, and
- (b) any other matters that are agreed on by the parties,

and shall submit the collective agreement to the disputes inquiry board for certification that the collective agreement accurately incorporates its recommendations.

(2) When a disputes inquiry board receives a collective agreement under subsection (1) and is satisfied that it gives effect to its recommendations, the disputes inquiry board shall certify the collective agreement as accurately incorporating the recommendations, and the collective agreement is binding on the parties.

Questions on
recommendations

106(1) If a question arises concerning the recommendations of a disputes inquiry board, the Minister, at the request of one or both of the parties, may request the member or chairman of the disputes inquiry board to reconvene the board to consider and decide the question.

(2) The disputes inquiry board shall notify the parties and the Minister of its decision under subsection (1).

(3) A decision under subsection (1) shall be dealt with in the same manner as a recommendation under section 103.

One disputes
inquiry board per
dispute

107 Not more than 1 disputes inquiry board may be appointed prior to and not more than 1 disputes inquiry board may be appointed after a strike or lockout commences with respect to any dispute between an employer or employers' organization and a bargaining agent.

Referral of
other disputes

108 The Minister may, at the same time a disputes inquiry board is appointed or subsequently, refer to the board any other dispute of a similar nature.

Division 18 Emergencies

Emergencies

109(1) If in the opinion of the Lieutenant Governor in Council an emergency arising out of a dispute exists or may occur in such circumstances that

(a) damage to health or property is being caused or is likely to be caused because

(i) a sewage system, plant or equipment or a water, heating, electrical or gas system, plant or equipment has ceased to operate or is likely to cease to operate, or

(ii) health services have been reduced, have ceased or are likely to be reduced or to cease,

or

(b) unreasonable hardship is being caused or is likely to be caused to persons who are not parties to the dispute,

the Lieutenant Governor in Council may, by order, declare that on and after a date fixed in the order all further action and procedures in the dispute are to be replaced by the procedures under this section.

(2) Before an order is made under subsection (1), the Minister may give the parties to the dispute an opportunity to meet with him and he may report his findings relating to the dispute and the effect of the stoppage or impending stoppage of work to the Lieutenant Governor in Council.

(3) After the date fixed in the order, any strike or lockout becomes illegal and an offence under this Act, and

- (a) no employer who is a party to the dispute shall lock out;
- (b) no employees who are parties to the dispute shall strike;
- (c) any strike or lockout that is in effect shall terminate.

(4) After the date fixed in the order the relationship of employer and employee continues uninterrupted by the dispute or anything arising from the dispute.

(5) When the order is made, the Minister shall forthwith establish a procedure for settlement of the dispute and the Minister may

- (a) prescribe the terms and conditions of employment that shall apply to the parties to the dispute during the procedure, and
- (b) do all things that may be necessary to settle the dispute.

(6) Notwithstanding anything in this Act, none of the parties to the dispute shall alter any of the terms and conditions of employment

- (a) that existed immediately prior to the dispute, or
- (b) that are prescribed by the Minister under subsection (5)

except that the employer or employers' organization, with the consent of the bargaining agent, may give effect to a proposed change in wages or hours of work.

(7) The *Regulations Act* does not apply to an order or procedure established under this section or section 110.

Public emergency
tribunal

110(1) As a procedure or part of a procedure to settle a dispute under section 109, the Minister may establish a public emergency tribunal in accordance with Division 20.

(2) After making full inquiry, and if the dispute has not been settled by agreement on or before a date fixed by the Minister, the public emergency tribunal shall

- (a) make its award, which shall deal with each item in dispute, and
- (b) forward a copy of the award to both parties to the dispute and to the Minister.

(3) The award of a public emergency tribunal is binding on the parties to the dispute and shall be included in the terms of a collective agreement.

Division 19

Measures During Illegal Strike or Illegal Lockout

Suspension of
dues check-off

111(1) If a strike that is prohibited by Division 16 or 18 of this Part commences, the Board may direct the employer to suspend the deduction and remittance of union dues, assessments or other fees payable to the bargaining agent by the employees in the bargaining unit that is on strike.

(2) The suspension under subsection (1) shall continue for a period of 1 to 6 months, as directed by the Board, from the date on which the employer commences the suspension.

(3) When the Board directs the employer to commence the suspension, it shall serve the bargaining agent with a copy of the directive.

(4) The bargaining agent that is served with a copy of the directive under subsection (3) may apply to the Board within 72 hours of service of the directive, but not thereafter, for a determination as to whether or not a strike has occurred.

(5) If the bargaining agent does not make an application under subsection (4), the employer shall suspend the deduction and remittance of union dues, assessments or other fees in accordance with the directive of the Board.

(6) If the bargaining agent makes an application under subsection (4), the employer shall not suspend the deduction and remittance of union dues, assessments or other fees unless and until the Board makes a determination under subsection (7)(b) that a strike has occurred.

(7) If the bargaining agent makes an application under subsection (4), the Board may,

(a) if it determines that no strike has occurred, cancel the directive under subsection (1), or

(b) if it determines that a strike has occurred, confirm the directive under subsection (1) and order that the suspension shall take place for the period specified in the directive, and thereupon the employer shall suspend the deduction and remittance of union dues, assessments and other fees in accordance with the directive.

(8) Notwithstanding any collective agreement or any other provision of this Act, an employee does not become ineligible for employment with an employer only because he fails to pay union dues, assessments or other fees, the deduction and remittance of which have been suspended under this section.

(9) At the end of the suspension period the employer shall resume the deduction and remittance of union dues, assessments and other fees in accordance with the collective agreement, but the employer

shall not deduct and remit union dues, assessments and other fees with respect to the suspension period.

(10) No provision may be made in a collective agreement in substitution for the suspension of the deduction and remittance of union dues, assessments and other fees under this section.

Payment of union dues during illegal lockout

112(1) If a lockout that is prohibited by Division 16 or 18 of this Part commences, the Board may direct the employer who locks out his employees to pay the union dues, assessments and other fees payable by the employees to any bargaining agent that represents them.

(2) The payment under subsection (1) shall continue for a period directed by the Board of 1 to 6 months from the date on which the lockout commences.

(3) The employer may apply to the Board within 72 hours of receiving the directive under subsection (1), but not thereafter, for a determination as to whether or not a lockout has occurred.

(4) If the employer does not make an application under subsection (3), he shall make the payments in accordance with this section.

(5) After hearing an application under subsection (3), the Board may,
(a) if it determines that no lockout has occurred, direct that the employer need not comply with the directive under subsection (1), or
(b) if it determines that a lockout has occurred, direct the employer to make the payments referred to in this section.

(6) Payments required to be made under this section are a debt owing to the bargaining agent and may be collected from the employer by civil action.

Direction by Lieutenant Governor in Council

113 Notwithstanding anything in this Act, the Lieutenant Governor in Council may direct the Board

- (a) to revoke the certification of a trade union that causes or participates in a strike that is prohibited by Division 16 or 18, or
- (b) to prohibit an employers' organization from representing employers for the purposes of collective bargaining if the employers' organization causes or participates in a lockout that is prohibited by Division 16 or 18.

Division 20

Disputes Resolution Tribunals

Appointment of interest arbitration boards

114(1) If the Minister directs the parties to a dispute to appoint a voluntary arbitration board under section 91 or a compulsory arbitration board under section 95, he shall notify the parties to the dispute in writing accordingly and require them either

- (a) to each appoint a person to act as a member of a 3-member arbitration board, or

(b) to jointly appoint a person to act as a 1-member arbitration board

within 10 days of that notification.

(2) The 2 persons appointed under subsection (1)(a) to act as members of an arbitration board shall, within 10 days of the date the 2nd person is appointed, appoint a 3rd person to act as a member and chairman of the arbitration board.

Appointments of
by Minister

115(1) If a party to the dispute fails to appoint a person to act as a member of a voluntary arbitration board or compulsory arbitration board or if the parties, having agreed to do so, fail to jointly appoint a person to act as a 1-member arbitration board, the Minister may appoint a person to act as the member.

(2) If the 2 persons appointed as members of an arbitration board under section 114(1)(a) fail to appoint a person to act as a member and chairman, the Minister may appoint a person to act as a member and chairman.

Appointments of
members of other
boards

116 The Minister may, with respect to a disputes inquiry board or a public emergency tribunal,

(a) appoint or provide for the appointment of 1 or more persons as its members, and

(b) if more than 1 person is appointed, designate a chairman.

Membership

117(1) The remuneration and expenses of the persons appointed under section 114 or 115 shall be paid,

(a) in the case of a person appointed or who should have been appointed individually by a party, by that party, and

(b) in the case of the chairman or a person appointed or who should have been appointed jointly by the parties, jointly by the parties.

(2) The Minister may, by order, prescribe the remuneration and expenses to be paid by the Government to members of a disputes inquiry board or a public emergency tribunal.

(3) If a vacancy occurs in the membership of a disputes resolution tribunal, a new member or chairman, as the case may be, shall be appointed in the same manner as the original member or chairman was appointed.

(4) Except in the case of the chairman or the single member of a voluntary arbitration board or a compulsory arbitration board, no person shall be disqualified from acting as a member of either of those boards unless that member is directly affected by the dispute or has been involved in an attempt to negotiate or settle the dispute.

Revocation of
appointments

118 If in the opinion of the Minister a member of a disputes resolution tribunal is unduly or unnecessarily delaying the proceedings of the tribunal, the Minister may

(a) revoke the appointment of the member, and

(b) appoint another person in his place.

Meetings	<p>119(1) A disputes resolution tribunal shall meet at the times and places fixed by the single member or chairman of the tribunal.</p> <p>(2) The chairman of a disputes resolution tribunal that has more than 1 member shall notify each member of the board of the time, date and place of each meeting.</p> <p>(3) A disputes resolution tribunal may decide to hold all or any part of a meeting in private.</p>
Proceedings	<p>120(1) A disputes resolution tribunal shall inquire into the matters in dispute and shall endeavour to effect a settlement.</p> <p>(2) A disputes resolution tribunal may determine its own procedure.</p> <p>(3) If a party to proceedings before a disputes resolution tribunal fails to attend or to be represented, the tribunal may proceed as if the party had attended or had been represented.</p>
Majority award	<p>121 An award of a majority of the members of a disputes resolution tribunal is an award of the disputes resolution tribunal, but if there is no majority, the award of the chairman is the award of the disputes resolution tribunal.</p>
Powers of disputes resolution tribunals	<p>122(1) Disputes resolution tribunals</p> <p style="padding-left: 20px;">(a) may accept any oral or written evidence they consider proper, whether admissible in a court of law or not,</p> <p style="padding-left: 20px;">(b) are not bound by the laws of evidence applicable to judicial proceedings, and</p> <p style="padding-left: 20px;">(c) may summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce the documents and things that the tribunals consider requisite to the full investigation and consideration of matters within their jurisdiction in the same manner as a court of record in civil cases.</p> <p>(2) If any person fails to comply with an order of a tribunal under subsection (1)(c), or conducts himself in a manner that may be in contempt of the tribunal or its proceedings, the tribunal may apply to the Court for an order directing compliance with the tribunal's order, or restraining any conduct found by the Court to be in contempt of the tribunal or its proceedings.</p> <p>(3) On an application under subsection (2), the Court may grant any order that, in the opinion of the Court, is necessary to enable the tribunal to carry out its duties.</p>
Filing and service of award	<p>123(1) When it makes an award, a disputes resolution tribunal shall</p> <p style="padding-left: 20px;">(a) file a copy of it with the Minister, and</p> <p style="padding-left: 20px;">(b) serve a copy of it on the parties to the dispute.</p> <p>(2) The Minister may publish an award in any manner he considers fit.</p>
Judicial review	<p>124(1) Subject to subsection (2), no decision, award, recommendation or proceeding of a disputes resolution tribunal shall be ques-</p>

tioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the tribunal or any of its proceedings.

(2) A decision, order, directive, declaration, ruling or proceeding of a disputes resolution tribunal may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the originating notice is filed with the Court no later than 30 days after the date of the proceeding, decision, order, directive, declaration or ruling or reasons in respect thereof, whichever is later.

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

- (a) determine the issues to be resolved on the application, and
- (b) limit the contents of the return from the tribunal to those materials necessary for the disposition of those issues.

Division 21

Effect of a Collective Agreement

Effect of
collective
agreement

125(1) The provisions of a collective agreement are binding on

- (a) the bargaining agent and every employee in the unit on whose behalf it was bargaining collectively;
- (b) the employer, where the employer acted on his own behalf;
- (c) the employers' organization and each employer on whose behalf it was bargaining collectively, where the employers' organization acted on behalf of employers.

(2) When an employer ceases to be a member of an employers' organization that is a party to a collective agreement that is binding on that employer, the employer shall, for the remainder of the term of the collective agreement, be deemed to be a party to a like agreement with the bargaining agent.

Term of
collective
agreements

126 If a collective agreement is for an unspecified term, the agreement shall be deemed to provide for its operation for a term of 1 year from the date that it commenced to operate.

Bridging of
collective
agreements

127(1) When notice to commence collective bargaining has been served under this Act, a collective agreement that applies to the parties at the time of service of the notice shall be deemed to continue to apply to the parties, notwithstanding any termination date in the agreement, until

- (a) a new collective agreement is concluded,
- (b) the right of the bargaining agent to represent the employees is terminated, or
- (c) a strike or lockout commences under Division 13.

(2) Notwithstanding subsection (1) and section 126, the parties to a collective agreement may before or after the agreement ceases to operate agree to continue its operation in part or in full, with or without changes.

Signing of
collective
agreement

128(1) Subject to this section, when the terms and conditions to be included in a collective agreement have been settled each of the parties who bargained collectively shall sign the collective agreement.

(2) No employee is required to sign a collective agreement that has been entered into on his behalf by a bargaining agent.

(3) No employer is required to sign a collective agreement that has been entered into on his behalf by an employers' organization.

Filing collective
agreement

129 Each of the parties to a collective agreement shall on its execution forthwith file 1 copy with the Director.

Collective
agreement
declared void

130(1) Any collective agreement entered into between an employer or an employers' organization and a trade union may be declared by the Board to be void when in its opinion the administration, management or policy of the trade union is

(a) dominated by an employer, or

(b) influenced by an employer so that the trade union's fitness to represent employees for the purpose of collective bargaining is impaired.

(2) Any collective agreement entered into between an employer or an employers' organization and a trade union as a result of the employer's recognition of the trade union as a bargaining agent may be declared by the Board to be void when in its opinion the recognition

(a) resulted from picketing of the place of employment of the employees affected or elsewhere, or

(b) is by an employer whose administration, management or policy is

(i) dominated by a trade union, or

(ii) influenced by a trade union so that the employer's fitness to bargain collectively is impaired.

Division 22

Collective Agreement Arbitration

Definition

131 For the purpose of this Division, "collective agreement" includes a settlement under section 78 or 79.

Requisites of
collective
agreement

132 Every collective agreement shall contain a method for the settlement of differences arising

(a) as to the interpretation, application or operation of the collective agreement,

(b) with respect to a contravention or alleged contravention of the collective agreement, and

(c) as to whether a difference referred to in clause (a) or (b) can be the subject of arbitration

between the parties to or persons bound by the collective agreement.

Model clauses

133 If a collective agreement does not contain the provisions required under section 132, the collective agreement shall be deemed to contain those of the following provisions in respect of which it is silent:

(a) If a difference arises between the parties to or persons bound by this collective agreement as to the interpretation, application, operation or contravention or alleged contravention of this agreement or as to whether such a difference can be the subject of arbitration, the parties agree to meet and endeavour to resolve the difference.

(b) If the parties are unable to resolve a difference referred to in clause (a), either party may notify the other in writing of its desire to submit the difference to arbitration.

(c) The notice referred to in clause (b) shall

(i) contain a statement of the difference, and

(ii) specify the name or a list of names of the person or persons it is willing to accept as the single arbitrator.

(d) On receipt of a notice referred to in clause (b), the party receiving the notice,

(i) if it accepts the person or one of the persons suggested to act as arbitrator, shall, within 7 days, notify the other party accordingly, and the difference shall be submitted to the arbitrator, or

(ii) if it does not accept any of the persons suggested by the party sending the notice, shall, within 7 days, notify the other party accordingly and send the name or a list of names of the person or persons it is willing to accept as the single arbitrator.

(e) If the parties are unable to agree on a person to act as the single arbitrator either party may request the Director in writing to appoint a single arbitrator.

(f) The arbitrator may, during the arbitration, proceed in the absence of any party or person who, after notice, fails to attend or fails to obtain an adjournment.

(g) The arbitrator shall inquire into the difference and issue an award in writing, and the award is final and binding on the parties and on every employee affected by it.

(h) The parties agree to share equally the expenses of the arbitrator.

(i) Except as permitted in clause (j), the arbitrator shall not alter, amend or change the terms or conditions of the collective agreement.

(j) If the arbitrator by his award determines that an employee has been discharged or otherwise disciplined by an employer for cause and the collective agreement does not contain a specific penalty for the infraction that is the subject-matter of the arbitration, the arbitrator may substitute any penalty for the discharge or discipline that to him seems just and reasonable in all the circumstances.

Appointment of
single arbitrator

134(1) If the parties to a collective agreement that provides for the appointment of a single arbitrator are unable to agree on a person to act as a single arbitrator within 14 days of the notice requiring that the matter go to arbitration, or any longer period that the collective agreement may contain for the selection of a single arbitrator, either party may, in writing, request the Director to appoint a single arbitrator.

(2) The expenses and remuneration of a single arbitrator appointed under subsection (1) shall be paid jointly by the parties.

Appointment of
arbitration board

135(1) When an arbitration board or other body is to be appointed or established pursuant to the terms of a collective agreement,

(a) if either party to the collective agreement within 7 days of the written notice from the other party of the appointment of his member or members fails or neglects to appoint a member or members, the Director shall, on the request of the other party, appoint a person or persons he considers fit for the purpose and that person or those persons are deemed to be appointed by that party,

(b) if the appointed members within 7 days from the date of the appointment of the last appointed member fail to agree on a person to act as a chairman, the Director shall appoint a chairman on the request of either party, and

(c) if the chairman or any member of the arbitration board refuses to act or is or becomes incapable of acting, a new chairman or member may be appointed in the same manner as the original chairman or member was appointed.

(2) The expenses and remuneration of the person, persons or chairman appointed under subsection (1) shall be paid,

(a) in the case of a person or persons appointed under subsection (1)(a) or (c), by the party who fails or neglects to appoint the person or persons, or

(b) in the case of the chairman appointed under subsection (1)(b) or (c), jointly by the parties.

(3) When the parties agree, the time within which any of the appointments is to be made may be extended.

Ineligibility

136 Except in the case of a chairman, no person shall be disqualified from acting as a member of an arbitration board or other body unless that member is directly affected by the difference or has been involved in an attempt to negotiate or settle the difference.

Speeding up decision

137(1) When a difference has been submitted to an arbitrator, arbitration board or other body, whether or not a hearing has been held, and one of the parties to the difference complains to the Board that the arbitrator, arbitration board or other body has failed to render an award within a reasonable time, the Board may, after consulting with the parties and the arbitrator, arbitration board or other body,

(a) issue whatever directive it considers necessary in the circumstances to ensure that an award will be rendered in the matter without further undue delay, or

(b) appoint a new arbitrator, arbitration board or other body to act in the place of the arbitrator, arbitration board or other body complained against.

(2) The Board may establish guidelines for the purpose of determining acceptable standards for avoidance of delay by arbitrators, arbitration boards and other bodies.

Majority decision and award

138(1) A decision of the majority of the members of an arbitration board or other body is the decision of the arbitration board or other body but, if there is no majority, the decision of the chairman governs, and his decision shall be deemed to be the award of the arbitration board or other body.

(2) Every arbitrator, arbitration board or other body shall, immediately on making an award, file a copy of the award with the Director.

(3) The award of an arbitrator, arbitration board or other body shall be served by the arbitrator or chairman on the parties to the difference by double registered mail or personally and the arbitrator or the chairman of the arbitration board or other body shall, at the request of any of the parties to the difference, make an affidavit or an affirmation that the award has been served.

(4) On receipt of the award of the arbitrator, arbitration board or other body, the Director may publish the award in any manner he considers fit.

Effect of award on collective agreement

139(1) Subject to subsection (2), no arbitrator, arbitration board or other body shall by its award alter, amend or change the terms of a collective agreement.

(2) If an arbitrator, arbitration board or other body determines that an employee has been discharged or otherwise disciplined by an employer for cause and the collective agreement does not contain a specific penalty for the infraction that is the subject-matter of the arbitration, the arbitrator, arbitration board or other body may substitute some other penalty for the discharge or discipline that to the arbitrator, arbitration board or other body seems just and reasonable in all the circumstances.

Powers of arbitrator

140(1) The arbitrator or the chairman of the arbitration board or other body may

(a) at any reasonable time enter any premises, other than a private dwelling, where work is being done or has been done by employees or in which an employer carries on business or where anything is taking place or has taken place concerning any differ-

ence submitted to him or it and inspect and view any work, material, machinery, appliance or article therein and question any person under oath in the presence of the parties or their representatives concerning any matter connected with the difference;

(b) authorize any person to do any things that the arbitrator or chairman of the arbitration board or other body may do under clause (a) and to report to the arbitrator or arbitration board thereon;

(c) correct in any award any clerical mistake, error or omission.

(2) An arbitrator, arbitration board or other body

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

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

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

(3) If any person fails to comply with an order of an arbitrator, arbitration board or other body under subsection (2)(c), or conducts himself in a manner that may be in contempt of the arbitrator, arbitration board or other body or his or its proceedings, the arbitrator, arbitration board or other body may apply to the Court for an order directing compliance with the order of the arbitrator, arbitration board or other body, or restraining any conduct found by the Court to be in contempt of the arbitrator, arbitration board or other body or his or its proceedings.

(4) On an application under subsection (3), the Court may grant any order that, in the opinion of the Court, is necessary to enable the arbitrator, arbitration board or other body to carry out his or its duties.

Parties bound
by award

141 The award of an arbitrator, arbitration board or other body is binding

(a) on the employers and the bargaining agent,

(b) in the case of a collective agreement between a bargaining agent and an employers' organization, on the bargaining agent, the employers' organization and employers bound by the agreement who are affected by the award, and

(c) on the employees bound by the agreement who are affected by the award,

and the employers, employers' organization, bargaining agent and employees shall do or abstain from doing anything, as required of them by the award.

Judicial review
of award

142(1) Subject to subsection (2), no award or proceeding of an arbitrator, arbitration board or other body shall be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the arbitrator, arbitration board or other body in any of his or its proceedings.

(2) A decision, order, directive, declaration, ruling or proceeding of an arbitrator, arbitration board or other body may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the originating notice is filed with the Court no later than 30 days after the date of the proceeding, decision, order, directive, declaration or ruling or reasons in respect thereof, whichever is later.

(3) The Court may, in respect of an application pursuant to subsection (2), determine the issues to be resolved on the application, and limit the contents of the return from the arbitrator or arbitration board to those materials necessary for the disposition of those issues.

Enforcement
of award

143(1) If an employers' organization, employer, bargaining agent or employee fails to comply with an award of an arbitrator or arbitration board or other body, an employers' organization, employer, bargaining agent or employee affected by the award may, after 30 days from the date on which the award is made or reasons are given in respect thereof or by the date provided in it for compliance, whichever is the latest date, file a copy of the award with a clerk of the Court and thereupon the directive is enforceable as a judgment or order of the Court.

(2) If an award filed with the Court proves uncertain or ambiguous, a judge of the Court shall refer the award back to the arbitrator for clarification on any terms and subject to any conditions that the Court considers just, unless the ambiguity may be resolved summarily without the need for oral evidence.

Division 23

Prohibited Practices

Alteration
of terms of
employment

144(1) If a trade union has applied for certification, no employer affected by the application shall, except in accordance with an established custom or practice of the employer or with the consent of the trade union or in accordance with a collective agreement in effect with respect to the employees in the unit affected by the application, alter the rates of pay, any term or condition of employment or any right or privilege of any of those employees during the time between the date of the application and

(a) the date of its refusal, or

(b) 30 days after the date of certification.

(2) If a notice to commence collective bargaining has been served pursuant to section 56(1) within 30 days after the date of certification

of the bargaining agent, no employer affected by the notice shall, except

- (a) in accordance with an established custom or practice of the employer,
- (b) with the consent of the bargaining agent, or
- (c) in accordance with a collective agreement in effect with respect to the bargaining agent,

alter the rates of pay, a term or condition of employment or a right or privilege of any employee represented by the bargaining agent or of the bargaining agent itself until 60 days after the date on which the notice is served.

(3) If a notice to commence collective bargaining has been served pursuant to section 56(2), no employer affected by the notice shall, except

- (a) in accordance with an established custom or practice of the employer,
- (b) with the consent of the bargaining agent, or
- (c) in accordance with a collective agreement in effect with respect to the bargaining agent,

alter the rates of pay, a term or condition of employment or a right or privilege of any employee represented by the bargaining agent or of the bargaining agent itself until

- (d) the right of the bargaining agent to represent the employees is terminated, or
- (e) a strike or lockout commences under Division 13.

Prohibited practices by employer, etc.

145(1) No employer or employers' organization and no person acting on behalf of an employer or employers' organization shall

- (a) participate in or interfere with
 - (i) the formation or administration of a trade union, or
 - (ii) the representation of employees by a trade union,

or

- (b) contribute financial or other support to a trade union.

(2) An employer does not contravene subsection (1) by reason only that the employer

- (a) in respect of a trade union that is a bargaining agent for his employees
 - (i) permits an employee or a representative of a trade union to confer with him during working hours or to attend to the business of the trade union during working hours without deduction in the computation of time worked by the employee and without deduction of wages in respect of the time so occupied,

(ii) provides free transportation to representatives of the trade union for purposes of collective bargaining, the administration of a collective agreement and related matters, or

(iii) permits the trade union to use his premises for the purposes of the trade union,

(b) makes to a trade union donations to be used solely for the welfare of the members of the trade union and their dependants, or

(c) expresses his views so long as he does not use coercion, intimidation, threats, promises or undue influence.

Prohibited
practices by
employer, etc.

146 No employer or employers' organization and no person acting on behalf of an employer or employers' organization shall

(a) refuse to employ or to continue to employ any person or discriminate against any person in regard to employment or any term or condition of employment because the person

(i) is a member of a trade union or an applicant for membership in a trade union,

(ii) has indicated in writing his selection of a trade union to be the bargaining agent on his behalf,

(iii) has been expelled or suspended from membership in a trade union for a reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union,

(iv) has testified or otherwise participated in or may testify or otherwise participate in a proceeding under this Act,

(v) has made or is about to make a disclosure that he may be required to make in a proceeding under this Act,

(vi) has made an application or filed a complaint under this Act,

(vii) has participated in any strike that is permitted by this Act, or

(viii) has exercised any right under this Act;

(b) impose any condition in a contract of employment that restrains, or has the effect of restraining, an employee from exercising any right conferred on him by this Act;

(c) seek by intimidation, dismissal, threat of dismissal or any other kind of threat, by the imposition of a pecuniary or other penalty or by any other means, to compel an employee to refrain from becoming or to cease to be a member, officer or representative of a trade union;

(d) suspend, discharge or impose any financial or other penalty on an employee, or take any other disciplinary action against an employee, by reason of that employee's having refused to perform an act prohibited by this Act;

(e) bargain collectively for the purpose of entering into a collective agreement, or enter into a collective agreement, with a trade union in respect of a bargaining unit if that employer or employers' organization or person acting on behalf of it knows, or in the opinion of the Board ought to know, that another trade union is the bargaining agent for that unit;

(f) suspend, discharge or impose any financial or other penalty on an employee, or take any other disciplinary action against an employee, by reason of his refusal to perform all or some of the duties and responsibilities of another employee who is participating in a strike that is permitted under this Act;

(g) discriminate against a person in regard to employment or membership in a trade union or intimidate or threaten to dismiss or in any other manner coerce a person or impose a pecuniary or other penalty on a person, because the person

(i) has testified or otherwise participated in or may testify or otherwise participate in a proceeding authorized or permitted under a collective agreement or a proceeding under this Act,

(ii) has made or is about to make a disclosure that he may be required to make in a proceeding authorized or permitted under a collective agreement or a proceeding under this Act, or

(iii) has made an application or filed a complaint under this Act.

Rights of employer

147 Nothing in this Act detracts from or interferes with the right of an employer to suspend, transfer or lay off employees, or to discharge employees for proper and sufficient cause.

Prohibited practices by trade union, etc.

148 No trade union and no person acting on behalf of a trade union shall

(a) seek to compel an employer or employers' organization to bargain collectively with the trade union if the trade union is not the bargaining agent for a unit of employees that includes employees of the employer;

(b) bargain collectively or enter into a collective agreement with an employer or employers' organization in respect of a unit, if that trade union or person knows, or in the opinion of the Board ought to know, that another trade union is the bargaining agent for that unit of employees;

(c) participate in or interfere with the formation or administration of an employers' organization;

(d) except with the consent of the employer of an employee, attempt, at an employee's place of employment during the working hours of the employee, to persuade the employee to become, to refrain from becoming or to cease to be a member of a trade union;

(e) authorize, encourage or consent to a refusal by any employee in a unit in respect of which the trade union is the bargaining

agent to perform work for his employer for the reason that other work was or will be performed or was not or will not be performed by any persons or class of persons who were not or are not members of a trade union or a particular trade union;

(f) use coercion, intimidation, threats, promises or undue influence of any kind with respect to any employee with a view to encouraging or discouraging membership or activity in or for a trade union;

(g) require an employer to terminate the employment of an employee because he has been expelled or suspended from membership in the trade union for a reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union;

(h) expel or suspend a person from membership in the trade union or take disciplinary action against or impose any form of penalty on a person by reason of his having refused to perform an act that is contrary to this Act;

(i) expel or suspend a person from membership in the trade union or take disciplinary action against or impose any form of penalty on any person

(i) for engaging in employment in accordance with the terms of a collective agreement between his employer and the trade union, or

(ii) for engaging in employment with an employer who is not a party to a collective agreement with the trade union if the trade union fails to make reasonable alternate employment available to that person within a reasonable time with an employer who is a party to a collective agreement with the trade union, unless the trade union and that person are participating in a strike that is permitted under this Act.

Prohibited
practices by trade
union, etc.

149(1) No trade union or person acting on behalf of a trade union shall

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

(b) take disciplinary action against or impose any form of penalty on a person by applying to him in a discriminatory manner the standards of discipline of the trade union.

(2) The Board has no jurisdiction to hear a complaint made under subsection (1)(a) or (b) unless the complainant establishes to the satisfaction of the Board that

(a) he presented an appeal to the trade union in accordance with the appeal procedure established by the trade union, and

(b) the trade union failed to deal with the matter within 6 months of the date he made his appeal.

- (3) Subsection (2) does not apply when the Board is satisfied that
 - (a) the action or circumstance giving rise to the complaint is such that the complaint should be dealt with without delay, or
 - (b) the trade union has not given the complainant ready access to a reasonable appeal procedure.

Fair representation

150(1) No trade union or person acting on behalf of a trade union shall deny an employee or former employee who is or was in the bargaining unit the right to be fairly represented by the trade union with respect to his rights under the collective agreement.

- (2) Subsection (1) does not render a trade union liable to an employee for financial loss to the employee if
 - (a) the trade union acted in good faith in representing the employee, or
 - (b) the loss was as the result of the employee's own conduct.

(3) When a complaint is made in respect of an alleged denial of fair representation by a trade union under subsection (1), the Board may extend the time for the taking of any step in the grievance procedure under a collective agreement, notwithstanding the expiration of that time, subject to any conditions that the Board may prescribe, if the Board is satisfied that

- (a) the denial of fair representation has resulted in loss of employment or substantial amounts of work by the employee or former employee,
- (b) there are reasonable grounds for the extension, and
- (c) the employer will not be substantially prejudiced by the extension, either as a result of an order that the trade union compensate the employer for any financial loss or otherwise.

Dispute-related misconduct

151(1) No employer, employers' organization, trade union or employee and no person acting on behalf of an employer, employers' organization, trade union or employee shall

- (a) engage in dispute-related misconduct, or
- (b) use or authorize or permit the use of a person or organization of persons who are not involved in a dispute and whose primary object, in the Board's opinion, is to prevent, interfere with or break up lawful activities in respect of a strike or lockout.

(2) In this section, "dispute-related misconduct" means a course of conduct of incitement, intimidation, coercion, undue influence, provocation, infiltration or any other similar course of conduct intended to prevent, interfere with or break up lawful activities or likely to induce a breach of the peace in respect of a strike or lockout.

Insurance and pension rights

152(1) No employer or employers' organization and no person acting on behalf of an employer or employers' organization shall deny

to any employee any pension rights or benefits or insurance rights or benefits to which the employee would be entitled but for

- (a) the cessation of work by the employee as the result of a lock-out or strike that is permitted by this Act, or
- (b) the dismissal of the employee contrary to this Act.

(2) While an insurance scheme remains in force, no employer or person acting on behalf of an employer shall, without lawful excuse,

- (a) deny or threaten to deny to an employee any benefit under the insurance scheme,
- (b) cancel or threaten to cancel the insurance scheme,
- (c) refuse to accept any of the premiums tendered by a bargaining agent on behalf of all the employees enrolled in the insurance scheme who are represented by the bargaining agent, or
- (d) fail to remit to the insurer any of the premiums tendered by a bargaining agent,

where

(e) the employee in a unit of employees of the employer ceases to work because the employees in the unit are locked out by the employer or because the employees in the unit are on a lawful strike, and

(f) the trade union that was the bargaining agent for the employees in the unit at the time the lockout or strike commenced tenders, or attempts to tender, to the employer, for the duration of the lockout or strike, the premiums in respect of all the employees covered by the insurance scheme who are represented by the bargaining agent.

(3) In subsection (2),

- (a) “insurance scheme” means a medical, dental, disability, life or other insurance scheme normally maintained by the employer on behalf of the employees in the unit;
- (b) “premiums” includes all amounts payable by the employees and the employer in consideration for a contract of insurance.

Division 24

Miscellaneous

Health, welfare
and pension
trusts

153(1) Notwithstanding the *Trustee Act*, in any proceeding affecting a trust

- (a) that has trustees representative in equal numbers of employers and trade unions,
- (b) that is or has been authorized or sanctioned by a collective agreement,
- (c) that involves health and welfare, pension or other similar benefits, and
- (d) in respect of which the trust agreement or instrument has been filed with the Minister,

a trustee is not personally liable for his actions or decisions as trustee whether taken or made before or after the coming into force of this

section, nor shall any such actions or decisions be varied or set aside unless it can be shown to the satisfaction of the court that the trustee failed to act honestly or in accordance with the purpose and intent of the trust agreement or instrument.

(2) In a trust described in subsection (1), the Court may, on the application of the trustees or any of them and on the applicant's giving any notice that the Court directs, order an amendment of the trust agreement or instrument that established the trust

(a) if, in the opinion of the majority of the trustees, it is difficult or impractical to otherwise validly amend the agreement or instrument and the majority has approved the proposed amendment, and

(b) if the Court is satisfied that the proposed amendment is in the interests of the management or administration of the trust and is fair and reasonable.

Non-application
of other Acts

154(1) The *Arbitration Act* does not apply to an arbitration or other proceeding under this Act.

(2) The *Regulations Act* does not apply to an order, decision, notice, directive, declaration, award, recommendation or certificate issued or made by the Board, a disputes resolution tribunal or an arbitrator, arbitration board or other body referred to in Division 22.

Division 25 Offences and Penalties

Specific offences

155 An employer, employee or other person who

(a) contravenes or fails to comply with any request or notice of the Board, the Chairman, a vice-chairman, or any other officer of the Board,

(b) wilfully delays or obstructs an officer in the exercise of any power or duty given to him under this Act,

(c) fails to produce any books, records, documents, papers, payrolls, contracts of employment or other record of employment that he is required to produce,

(d) conceals or attempts to conceal an employee or seeks to prevent him from appearing before or being examined by an officer, or

(e) makes a complaint to the Board knowing it to be untrue,

is guilty of an offence.

Penalties re
prohibited
lockouts

156(1) An employer or employers' organization that commences or causes a lockout contrary to this Act is guilty of an offence and liable to a fine not exceeding \$1000 for each day that the lockout continues.

(2) A person not referred to in subsection (1) who commences, causes or consents to a lockout contrary to this Act is guilty of an offence and liable to a fine not exceeding \$10 000.

Penalties re prohibited strikes

157(1) A trade union that causes a strike contrary to this Act is guilty of an offence and liable to a fine not exceeding \$1000 for each day that the strike continues.

(2) An officer or representative of a trade union who strikes or causes or consents to a strike contrary to this Act is guilty of an offence and liable to a fine not exceeding \$10 000.

(3) A person who is not a trade union or an officer or representative of a trade union who strikes or causes a strike contrary to this Act is guilty of an offence and liable to a fine not exceeding \$1000.

General offence and penalty

158 Subject to sections 156 and 157, a person, employee, employer, employers' organization or trade union that contravenes or fails to comply with any provision of this Act or of any decision, order, directive, declaration or ruling made by the Board under this Act is guilty of an offence and liable

(a) in the case of a corporation, employers' organization or trade union, to a fine not exceeding \$10 000, or

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

Prosecutions

159 No prosecution for an offence under this Division shall be commenced without the consent in writing of the Minister.

PART 3

TRANSITIONAL, CONSEQUENTIAL, REPEAL AND COMMENCEMENT

Transitional

160(1) *All applications, proceedings, actions and inquiries commenced under the Labour Relations Act shall be continued to their conclusion and treated for all purposes as if this Act had not come into force and the Labour Relations Act had remained in force.*

(2) *All agreements, instruments and other documents filed with the Minister or the Board under the Labour Relations Act shall be deemed to have been filed under this Act.*

(3) *The certification of a trade union under the Labour Relations Act continues in force under this Act for a period of 3 years from the date this Act comes into force, or until continued under subsection (5).*

(4) *A trade union wishing to continue a certificate issued under the Labour Relations Act shall file with the Board a declaration in the form prescribed by the Board,*

(a) *declaring that the trade union is a party to a collective agreement with the employer named in the certificate or a successor to that employer within the meaning of section 43, 44 or 45,*

(b) *where the employer or trade union has changed its name since the certificate, giving details of that change of name, and*

(c) *where the trade union is not a party to a collective agreement, giving details of any bargaining conducted on behalf of the bargaining unit.*

(5) Where the Board is satisfied on the basis of the declaration referred to in subsection (4) that the bargaining relationship referred to in the certificate continues as a result of a collective agreement or an obligation to bargain, and has not been abandoned, the Board, after conducting such inquiries, hearings and votes as it considers appropriate, shall issue a new certificate continuing the certificate issued under the Labour Relations Act.

Consequential **161(1)** In the following provisions “Labour Relations Act” is struck out wherever it occurs and “Labour Relations Code” is substituted:

Act	Section Number
Banff Centre Act	28(e)
Burial of the Dead Act	1(2) and 2
Colleges Act	21.9(e)
Election Finances and Contributions Disclosure Act	1(1)(q)
Employment Agencies Act	2(b)
Employment Pension Plans Act	5(2)
Insurance Act	1(x.1)
Police Officers Collective Bargaining Act	1(d) and (n) and 43(1) and (2)
Private Vocational Schools Act	2(i)
School Act	72(6) and (7) and 82(3)(a)
Student and Temporary Employment Act	2
Technical Institutes Act	36(e)
Universities Act	21.91(e)

(2) The Police Officers Collective Bargaining Act is amended by repealing section 15(a)(iii) and substituting the following:

(iii) the general economic conditions in Alberta;

(3) The Public Service Employee Relations Act is amended

(a) in section 21(1)(f) by striking out “an officer under the Labour Relations Act” and substituting “an officer under the Labour Relations Code”;

(b) by repealing section 55(a)(iii) and substituting the following:

(iii) the general economic conditions in Alberta;

Repeal **162** The Labour Relations Act is repealed.

Coming into force **163** This Act comes into force on Proclamation.