

2000 BILL 216

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Fourth Session, 24th Legislature, 49 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 216

LABOUR STATUTES (WORKERS' RIGHTS)  
AMENDMENT ACT, 2000

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DR. PANNU

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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*Bill 216*  
*Dr. Pannu*

## **BILL 216**

2000

### **LABOUR STATUTES (WORKERS' RIGHTS) AMENDMENT ACT, 2000**

*(Assented to , 2000)*

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

#### **Employment Standards Code**

Amends SA  
1996 cE-10.3

**1(1) The *Employment Standards Code* is amended by this section.**

**(2) Section 2(3) is repealed and the following is substituted:**

(3) This Act does not apply to farming and ranching operations employing 3 or fewer employees on a full-time equivalent basis.

## Explanatory Notes

### Employment Standards Code

1(1) Amends chapter E-10.3 of the Revised Statutes of Alberta, 1996.

(2) Section 2(3) presently reads:

*2(3) The following Divisions and regulations:*

- (a) Part 2, Division 3, Hours of Work;*
- (b) Part 2, Division 4, Overtime and Overtime Pay;*
- (c) Part 2, Division 5, General Holidays and General Holiday Pay;*
- (d) Part 2, Division 6, Vacations and Vacation Pay;*
- (e) Part 2, Division 9, Restriction on Employment of Children and regulations made under section 138(1)(e), prohibiting or regulating the employment of individuals under 18 years of age;*
- (f) regulations under section 138(1)(d) respecting vacations, vacation pay, general holidays and general holiday pay;*
- (g) regulations under section 138(1)(f) respecting the minimum wage.*

**(3) Section 6 is amended by renumbering it as section 6(1) and by adding the following after subsection (1):**

(2) Employees employed for 15 or more hours per week but less than full-time hours by the same employer shall be entitled to benefits and other entitlements in proportion to paid full-time employees.

(3) To ensure that the rate of minimum wage as prescribed by the regulations is fair and reasonable to employees and employers, the Minister shall at least once each year review the rate of minimum wage and take into account the following:

- (i) wages and benefits for private and public and unionized and non-unionized employment;
- (ii) consumer price increases;
- (iii) the general economic conditions in Alberta; and
- (iv) any other relevant factor.

**(4) Section 21 is amended in clause (b) by striking out “in excess of 44 hours in the work week” and substituting “in excess of 40 hours in the work week”.**

*do not apply to employees employed on a farm or ranch whose employment is directly related to*

- (h) the primary production of eggs, milk, grain, seeds, fruit, vegetables, honey, livestock, game-production animals within the meaning of the Livestock Industry Diversification Act, poultry or bees, or*
- (i) any other primary agricultural operation specified in the regulations,*

*or to their employer while acting in the capacity as employer.*

(3) Section 6 presently reads:

*6 Despite anything in this Act, the regulations under section 138 may*

- (a) exempt an employment, employer or employee from Part 2 or any provision of it, and*
- (b) modify or substitute any provision of Part 2 in respect of an employment, employer or employee.*

(4) Section 21 presently reads:

*21 Overtime hours in respect of a work week are*

- (a) the total of an employee's hours of work in excess of 8 on each work day in the work week, or*
- (b) an employee's hours of work in excess of 44 hours in the work week,*

*whichever is greater, and, if the hours in clauses (a) and (b) are the same, the overtime hours are those common hours.*

**(5) Section 23 is amended by adding the following after subsection (3):**

**(4)** An overtime agreement must be renewed or renegotiated at least every 2 years.

**(6) Section 67 is amended by adding the following after subsection (3):**

**(4)** The Director shall maintain a register of arrangements for which permits have been issued under subsection (1)

(5) Section 23 presently reads:

*23(1) An employee or the majority of a group of employees may enter into an overtime agreement*

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

*that provides that, wholly or partly instead of overtime pay, the employer will provide, and the employee or group of employees will take, time off with pay instead of overtime pay.*

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

- (a) time off with pay instead of overtime pay will be provided, taken and paid at the employee's wage rate at a time that the employee could have worked and received wages from the employer;*
- (b) if time off with pay instead of overtime pay is not provided, taken and paid in accordance with clause (a), the employee will be paid overtime pay of at least 1.5 times the employee's wage rate for the overtime hours worked;*
- (c) time off with pay instead of overtime pay will be provided, taken and paid to the employee within 3 months of the end of the pay period in which it was earned unless*
  - (i) the agreement is part of a collective agreement and the collective agreement provides for a longer period within which the time off with pay is to be provided and taken, or*
  - (ii) the Director issues a permit authorizing an agreement that provides for a longer period within which the time off with pay is to be provided and taken;*
- (d) no amendment or termination of the agreement is to be effective without at least one month's written notice given by one party to the agreement to the other.*

*(3) An employer must provide a copy of the overtime agreement to each employee affected by it.*

(6) Section 67 presently reads:

*67(1) If the Director is satisfied that a proposed employment arrangement between an employer and a prospective employee who has a disability is satisfactory for both of them in all the circumstances, the Director may issue to the employer a permit authorizing*

including

- (a) information on the sector or industry,
- (b) number of employees exempted,
- (c) the range of wages, and
- (d) other information which the Director deems relevant.

(5) The information collected under subsection (4) shall be contained in the annual report presented by the Minister under section 14 of the *Government Accountability Act*.

**(7) Section 74 is amended by adding the following after subsection (2):**

(3) The Director shall maintain a register of the schemes of employment approved under subsection(1) including

- (a) the industry,
- (b) number of employers and employees affected,
- (c) the reason for approval, and
- (d) the period for which approval is granted.

(4) The information collected under subsection (3) shall be contained in the annual report presented by the Minister under section 14 of the *Government Accountability Act*.

**(8) Section 82 is amended**

- (a) in subsection (2) by striking out “6 months” and substituting “12 months”;**
- (b) in subsection (3) by striking out “6-month period” and substituting “12-month period”.**



- (a) *the employer to pay the prospective employee a wage less than the minimum wage prescribed by the regulations, and*
  - (b) *the prospective employee to receive less than the minimum wage.*
- (2) *A copy of the permit must be served on the employer and the prospective employee.*
- (3) *The employer or the prospective employee to whom a permit applies may appeal the permit to an umpire.*

(7) Section 74 presently reads:

*74(1) The Director may approve a scheme of employment with respect to an employer and the employer's employees or prospective employees that applies despite any provision to the contrary in this Act.*

*(2) The Director may revoke, amend or vary an approval for a scheme of employment at any time.*

(8) Section 82 presently reads:

*82(1) An employee may make a written complaint to an officer that*

- (a) *the employee is entitled to earnings;*
- (b) *the employment of the employee was suspended or terminated or the employee was laid off*
  - (i) *contrary to section 51(1), after the employee started maternity leave or because the employee was entitled to or had started adoption leave,*
  - (ii) *for the sole reason that garnishment proceedings are being or might be taken against the employee,*

**(9) Section 84 is amended**

- (a) in subsection (1) by striking out “or compromising”;**
- (b) in subsections (2) and (3) by striking out “or compromise” wherever it occurs.**

**(10) Section 86 is amended by striking out “, settle or compromise” and substituting “or settle”.**

- (iii) *because the employee gave evidence or may give evidence at any inquiry or in any proceeding or prosecution under this Act,*
- (iv) *because the employee requested or demanded anything to which the employee is entitled under this Act, or*
- (v) *because the employee made or is about to make any statement or disclosure that may be required of the employee under this Act.*

(2) *A complaint may be made at any time while the employee is employed by the employer and, if the employee's employment is terminated, at any time up to 6 months after the date on which the employment is terminated.*

(3) *When the Director considers that there are extenuating circumstances, the Director may extend the 6-month period, before or after it expires.*

(4) *An employee may not be charged a fee for making a complaint or for the investigation of a complaint.*

(9) Section 84 presently reads:

*84(1) An officer may mediate between an employer and an employee for the purpose of settling or compromising differences between them and in doing so may*

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

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

(3) *When an officer pays to an employee money received as a result of a settlement or compromise, the employer is discharged from further liability to the employee with respect to the amount received by the employee.*

(10) Section 86 presently reads:

*86 If an officer, after investigating a complaint of an employee, has reason to believe that*

- (a) *the employment of the employee was suspended or terminated,*
- or*

**(11) Section 87(1) is amended by striking out “, settle or compromise” and substituting “or settle”.**

**(12) Section 89 is amended by repealing subsection (6) and substituting the following:**

(6) The employer or employee may appeal a Director’s decision under subsection (5) to an umpire.

**(13) Section 90 is amended**

**(a) in subsection (1)(a) by striking out “after one year” and substituting “after 2 years”;**

**(b) in subsection (4)(a) by striking out “not exceeding 6 months” and substituting “of 12 months”.**

**(14) Section 94(1)(b) is amended by striking out “or compromise”.**

(b) *the employee was laid off*

*in the circumstances or for the reasons described in section 82(1)(b) and the officer is unable to mediate, settle or compromise the difference between the employer and employee, the officer must refer the complaint to the Director.*

(11) Section 87(1) presently reads:

*87(1) If an officer determines that earnings are due to an employee and is unable to mediate, settle or compromise the difference between the employer and employee, the officer must make an order requiring the employer to pay to the employee, or to pay to the Director on behalf of the employee, earnings to which the employee is entitled.*

(12) Section 89(6) presently reads:

*89(6) There is no appeal of the Director's decision under subsection (5).*

(13) Section 90 presently reads in part:

*90(1) No order under this Division may be made with respect to earnings*

(a) *after one year from the date on which the earnings should have been paid, if the employee is still employed by the employer, and*

(b) *after one year from the date the employment terminates, if the employee is no longer employed by the employer.*

(4) *An order under this Division may direct*

(a) *payment of wages or overtime pay, or both, for a period not exceeding 6 months from whichever first occurs:*

(i) *the order, or*

(ii) *the employee's termination of employment, if the employee's employment is terminated;*

(b) *payment of vacation pay or general holiday pay, or both, for a period not exceeding 2 years from whichever first occurs:*

(i) *the order, or*

(ii) *the employee's termination of employment, if the employee's employment is terminated.*

(14) Section 94(1) presently reads in part:

*94(1) Despite anything in this Act, the Director may*

**(15) Section 96 is amended by adding the following after subsection (2):**

(3) An employee may submit to the Registrar a claim for wages lost and travelling expenses that were incurred by the employee in attending an appeal before an umpire.

(4) The amount of the claim submitted to the Registrar under subsection (3) shall be paid by the employer.

**(16) Section 109(3) is amended by striking out “\$7500” and substituting “\$20 000”.**

**(17) Section 111(1) is amended by adding “or of the Registrar under section 96(4)” after “compensation”.**

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

(15) Section 96 presently reads:

*96(1) If a notice of appeal meets all the requirements for an appeal, the Registrar must*

- (a) *refer the appeal to an umpire, and*
- (b) *give to the appellant and to each employee and employer who is a party to the appeal, and to the Director, written notice of the date, time and place at which the appeal will be considered.*

*(2) The Director is a party to every appeal to an umpire and every proceeding resulting from an order or resulting from an umpire's award.*

(16) Section 109(3) presently reads:

*109(3) Subject to subsection (4) and section 111, wages, overtime pay, vacation pay and general holiday pay accruing or due to an employee are deemed to be secured by a security interest on the property and assets of the employer to a maximum of \$7500, whether or not that property or those assets are subject to other security interests, and are payable in priority to any other claim or right in the property or assets, including*

- (a) *any claim or right of the Crown in right of Alberta, including, without limitation, claims or rights of the Workers' Compensation Board, and*
- (b) *any security interest, lien, charge, encumbrance, mortgage, assignment, including an assignment of book debts, debenture or other security of whatever kind of any person, whether or not perfected within the meaning of the Personal Property Security Act,*

*made, given, accepted or issued before or after the wages, overtime pay, vacation pay or general holiday pay accrued due, without registration or other perfection of the deemed security interest.*

(17) Section 111(1) presently reads:

*111(1) The Director may provide the Registrar of Land Titles with an order of an officer or of the Director or an umpire's award respecting wages, overtime pay, vacation pay, general holiday pay or an amount payable under an order of the Director for compensation and require the Registrar of Land Titles to register the order on a certificate of title for land described by the Director in which the employer has an interest.*

**(18) Section 115(1)(a) is amended by striking out “or” at the end of subclause (i), by adding “or” at the end of subclause (ii) and by adding the following after subclause (ii):**

(iii) an amount ordered by the Registrar under section 96(4),

#### **Labour Relations Code**

Amends SA  
1988 cL-1.2

**2(1) The *Labour Relations Code* is amended by this section.**

**(2) The Preamble is amended by adding the following before the first recital:**

WHEREAS every employee has the right to join a union to participate in its activities and to engage in the collective bargaining process; and

**(3) Section 1 is amended**

**(a) by striking out clause (l) and substituting the following:**

(l) "employee" means a person employed to do work who is in receipt of or entitled to wages;

**(b) in clause (m) by adding “and includes the Crown in right of Alberta and a corporation, commission, council or other body, all or a majority of whose members or directors are designated by an Act of the Legislature” after “an employee”.**



(18) Section 115(1) presently reads:

*115(1) If the Director knows or has reason to believe that*

*(a) an employer has failed or is likely to fail to pay*

*(i) earnings to an employee, or*

*(ii) an amount of compensation that the Director may order payable under section 89(3)(b) to an employee,*

*and*

*(b) a third party is or is about to become indebted to the employer for a sum of money or is about to pay a sum of money to the employer,*

*the Director may, even though the Director has not determined the amount to which an employee is entitled, issue a demand and serve it on the third party.*

#### **Labour Relations Code**

2(1) Amends chapter L-1.2 of the Statutes of Alberta, 1988.

(2) Preamble amended.

(3) Section 1(l) and (m) presently read:

*l In this Act,*

*(l) "employee" means a person employed to do work who is in receipt of or entitled to wages, but does not include*

*(i) a person who in the opinion of the Board exercises managerial functions or is employed in a confidential capacity in matters relating to labour relations, or*

*(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 is employed in his professional capacity;*

*(m) "employer" means a person who customarily or actually employs an employee;*

**(4) Section 4(2) is repealed and the following is substituted:**

- (2) This Act does not apply to
  - (a) employers and employees in respect of whom this Act does not apply by virtue of a provision of another Act,
  - (b) 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*, or
  - (c) to farming and ranching operations employing 3 or fewer employees on a full-time equivalent basis.

**(5) Section 5 is amended by adding the following after subsection (3):**

- (4) Every employer employing 25 or more employees at any business location shall display a copy of this Act at each such location.

(4) Section 4 presently reads:

*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, game-production animals within the meaning of the Livestock Industry Diversification Act, 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.*

(5) Section 5 presently reads:

*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*

**(6) Section 11 is amended**

**(a) in subsection (2) by striking out “and” at the end of clause (h) and adding the following after clause (i):**

- (j) issue a certificate to a union without conducting a vote, where there is reason to believe that the employer through its conduct directly or indirectly or otherwise has interfered in the process of certification, and
- (k) arbitrate a first collective agreement for parties should they fail to negotiate a first collective agreement within 6 months of certification.

**(b) in subsection (3) by striking out “or” at the end of clause (t), by adding “or” at the end of clause**

*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.*

(6) Section 11(2) and (3) presently read:

*(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*
  - (i) of procedure for the conduct of its business, including inquiries and hearings,*
  - (ii) for the giving of notice and the service of documents,*
  - (iii) for the charging of fees for services or materials provided by or at the direction of the Board in a proceeding before it or in an application under section 18(2), and*
  - (iv) 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,*

**(u) and by adding the following after clause (u):**

(v) whether the parties have bargained in good faith,

**(7) Section 25 is amended by repealing subsection (1) and substituting the following:**

- (b) *a person is an employee,*
- (c) *an organization or association is an employers' organization,*
- (d) *an organization of employees is a trade union,*
- (e) *an employer has given an employers' organization authority to bargain collectively on his behalf or has revoked that authority,*
- (f) *a collective agreement has been entered into,*
- (g) *a person is bound by a collective agreement,*
- (h) *a person is a party to a collective agreement,*
- (i) *a collective agreement has been entered into on behalf of any person,*
- (j) *a collective agreement is in effect,*
- (k) *the parties to a dispute have settled the terms to be included in a collective agreement,*
- (l) *a group of employees is a unit appropriate for collective bargaining,*
- (m) *a person has applied for membership or has terminated his membership in a trade union,*
- (n) *a person is a member in good standing of a trade union,*
- (o) *a person is included in or excluded from a unit,*
- (p) *an employer is affected by a registration certificate of a registered employers' organization,*
- (q) *an employee is employed in a sector,*
- (r) *an employee is employed in a trade jurisdiction,*
- (s) *an employer is engaged in the construction industry or in a part of the construction industry,*
- (t) *a strike has occurred or is lawful under this Act, or*
- (u) *a lockout has occurred or is lawful under this Act.*

*and the Board's decision is final and binding.*

(7) Section 25(1) presently reads:

*25(1) An employee may, in writing, authorize his employer to deduct from*

(1) Every employer must deduct from each employee's wages

- (a) union dues, and
- (b) initiation fees not exceeding an amount equivalent to 1 month's union dues

and remit the deductions to the union representing the bargaining unit.

**(8) Section 82(1) is amended by striking out “, at the striking or locked-out employees’ place of employment and not elsewhere,”.**

**(9) Section 87 is amended by renumbering it as 87(1) and adding the following after subsection (1):**

(2) In this section, “replacement employee” means a person who, during a lawful lockout or strike,

- (a) is hired or engaged by the employer after the earlier of the date on which the notice to commence collective bargaining is given and the date on which bargaining begins,
- (b) ordinarily works at another of the employer's places of operation,
- (c) is transferred after the earlier of the date on which the notice to commence collective bargaining is given or the date on which bargaining begins to a place of operation in respect of which the strike or lockout is taking place, or
- (d) is employed, engaged or supplied to the employer by another person.



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.

(8) Section 82(1) presently reads:

*82(1) Subject to subsection (2), during a strike or lockout that is permitted under this Act anyone may, at the striking or locked-out employees' place of employment and not elsewhere, in connection with any labour relations dispute or difference and without acts that are otherwise unlawful, peacefully engage in picketing to persuade or endeavour to persuade anyone not to*

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

(9) Section 87 presently reads:

*87 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.*

(3) No employer shall, during a lawful lockout or strike, use the services of a paid or unpaid replacement employee to perform

- (a) the work of an employee who is on strike or locked out, or
- (b) the work ordinarily done by any person performing the work of an employee who is on strike or locked out.

**(10) Section 88 is repealed and the following is substituted:**

Reinstatement

**88(1)** Subject to subsection (2), if at the end of a lawful strike or lockout the employer and the trade union do not agree on the terms for reinstating employees, the employer shall forthwith reinstate each employee who was on strike or locked out to the position that the employee held when the strike or lockout began.

(2) If at the end of a lawful strike or lockout there is not sufficient work for all employees who were on strike or locked out, the employer shall reinstate them to employment as work becomes available

- (a) in accordance with seniority provisions contained in the collective agreement, or
- (b) if there is no applicable provision in the collective agreement, then in accordance with each employee's length of service determined when the strike or lockout began.

(3) If there is not sufficient work for all employees returning to work after a strike or lockout, the employees who are not reinstated shall

- (a) be given notice of layoff or pay in lieu of notice of layoff or severance pay in accordance with the provisions of the collective agreement, or
- (b) if there is no applicable provision in the collective agreement, then those employees who are not reinstated shall be given termination notice or pay in lieu of termination notice in accordance with the *Employment Standards Code*.

(10) Section 88 presently reads:

*88(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*

**(11) Division 16 of Part 2 is repealed.**

- (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.*

(11) Division 16 of Part 2 presently reads:

*Division 16  
Compulsory Interest Arbitration*

*94(1) This Division applies to the following:*

- (a) firefighters and, to the extent that they bargain collectively with firefighters, municipalities and Metis settlements;*
- (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.*

*95(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.*

*96 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.*

*97 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.*

*98(1) On receipt of the list under section 97, 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".*

*99 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.*

*100(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.*

*101(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*

**(12) Section 110 is amended**

**(a) by adding the following before subsection (1):**

**110(0.1)** In order to ensure that essential services are maintained, both the employer and trade union shall determine those employees in the bargaining unit who are to be designated as essential and emergency service employees.

**(0.2)** In the event the employer and trade union are unable to agree on the designation of any employee, the Labour Relations Board shall designate the employee.

**(0.3)** Employees designated as essential and emergency service employees are prohibited from striking and must not be locked out by their employer.

**(b) in subsection (1) by adding** “relating to employees designated as essential and emergency service employees under this section” **after** “all further action”;

**(c) by repealing subsections (3), (4), (5), (6) and (7).**

- (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.*

*102(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.*

(12) Section 110 presently reads:

*110(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*

**(13) Section 111 is repealed.**

*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 111.*

(13) Section 111 presently reads:

*111(1) As a procedure or part of a procedure to settle a dispute under section 110, 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*

**(14) Section 112(1) is amended**

**(a) by striking out “16 or”;**

**(b) by striking out “that is on strike” and substituting “who are on strike and who are designated as essential and emergency service employees”.**

**(15) Section 114(b) is amended by striking out “16 or”.**

**Occupational Health and Safety Act**

Amends RSA  
1980 cO-2

**3(1) The *Occupational Health and Safety Act* is amended by this section.**

**(2) Section 1 is amended by repealing clause (g) and by substituting the following:**

(g) “occupation” means every occupation, employment, business, calling or pursuit over which the Legislature has jurisdiction, except farming or ranching operations employing 3 or fewer employees on a full-time equivalent basis;

*(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.*

(14) Section 112(1) presently reads:

*112(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.*

(15) Section 114 presently reads:

*114 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.*

### **Occupational Health and Safety Act**

**3(1)** Amends chapter 0-2 of the Revised Statutes of Alberta, 1980.

(2) Section 1 presently reads in part:

*1 In this Act,*

*(g) "occupation" means every occupation, employment, business, calling or pursuit over which the Legislature has jurisdiction, except*

*(i) farming or ranching operations specified in the regulations, and*

*(ii) work in, to or around a private dwelling or any land used in connection with the dwelling that is performed by an occupant or owner who lives in the private dwelling or a household servant of the occupant or owner;*

**(3) Section 13(1.1) is amended by adding the following after clause (b):**

- (b.1) an injury or accident that results in more than 2 workers being treated in a hospital,

**(4) Section 25 is amended**

**(a) by adding the following before subsection (1):**

**(0.1)** Every employer employing more than 25 workers at any site must establish a joint work site health and safety committee.

**(0.2)** Notwithstanding that there are fewer than 25 workers employed at a work site, the Minister may, by order, require that a joint work site health and safety committee be established.

**(b) in subsection (1) by striking out** “The Minister may, by order, require that there be established at any work site a joint work site health and safety committee which shall” **and substituting** “A joint work place health and safety committee shall”.



(3) Section 13(1.1) presently reads:

*13(1.1) The injuries and accidents to be reported under subsection (1) are*

- (a) an injury or accident that results in death,*
- (b) an injury or accident that results in a worker's being admitted to a hospital for more than 2 days,*
- (c) an unplanned or uncontrolled explosion, fire or flood that causes a serious injury or that has the potential of causing a serious injury,*
- (d) the collapse or upset of a crane, derrick or hoist, or*
- (e) the collapse or failure of any component of a building or structure necessary for the structural integrity of the building or structure.*

(4) Section 25 presently reads:

*25(1) The Minister may, by order, require that there be established at any work site a joint work site health and safety committee which shall*

- (a) identify situations which may be unhealthy or unsafe in respect of the work site,*
- (b) make recommendations to prime contractors, contractors, employers and workers for the improvement of the health and safety of workers at or on the work site,*
- (c) establish and maintain educational programs regarding the health and safety of workers at or on the work site, and*
- (d) carry out those duties and functions prescribed by the regulations.*

*(2) A joint work site health and safety committee shall consist of workers who represent the workers at the work site and persons who represent the prime contractor, contractors and employers involved in work at the work site.*

*(3) The number of persons on a joint work site health and safety committee who represent the prime contractor, contractors and employers shall not exceed in total the number of workers on the committee who represent the workers at the work site.*

*(4) Repealed RSA 1980 c15(Supp) s20.*

*(5) A joint work site health and safety committee shall hold its meetings and carry out its duties and functions during normal working hours.*

**(5) Section 31(1)(a) is repealed.**

**Public Service Employee Relations Act**

Repeals RSA  
1980 cP-33

**4 The *Public Service Employee Relations Act* is repealed.**

*(6) No disciplinary action shall be taken against a member of a joint work site health and safety committee by reason of that member performing duties and functions as a member of that committee.*

*(7) Repealed RSA 1980 c15(Supp) s20.*

(5) Section 31(1) reads in part:

*31(1) The Lieutenant Governor in Council may make regulations*

*(a) specifying farming and ranching operations for the purposes of section 1(g);*

### **Public Service Employee Relations Act**

**4** Repeals chapter P-33 of the Revised Statutes of Alberta, 1980.