

2013 Bill 45

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 45

PUBLIC SECTOR SERVICES CONTINUATION ACT

THE MINISTER OF HUMAN SERVICES

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 45

2013

PUBLIC SECTOR SERVICES CONTINUATION ACT

(Assented to , 2013)

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Preamble

WHEREAS certain Acts of Alberta prohibit strikes and the causing of strikes by persons who provide certain services in the public sector;

WHEREAS those services are of the utmost importance to Albertans and to the orderly functioning of the Province; and

WHEREAS any withdrawal or threatened withdrawal of those services would be contrary to the public interest and could compromise the health or safety of, or otherwise cause hardship to, Albertans;

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

Interpretation

1(1) In this Act,

- (a) “abatement order” means an order made under section 9(1) or (2);
- (b) “authorized person”, in respect of an application under section 5(1), 6(5), 9(1) or (2) or 13(2), means a person that is authorized, or is a member of a class of persons that is authorized, by order under section 23 to make the application;
- (c) “bargaining unit”
 - (i) in respect of employees as defined in clause (f)(i)(A), means a unit, as defined in the *Labour Relations Code*, in respect of which a trade union is certified as a bargaining agent under the *Labour Relations Code*,
 - (ii) in respect of employees as defined in clause (f)(i)(B), means a bargaining unit as defined in the *Public Service Employee Relations Act*, and
 - (iii) in respect of a strike threat or strike, means the bargaining unit within the meaning of subclause (i) or (ii) that includes the employees to whom the strike threat relates or related or who are or were on strike;
- (d) “Board” means the Labour Relations Board;

- (e) “Court” means the Court of Queen’s Bench;
- (f) “employee” means an individual
 - (i) who
 - (A) is an employee as defined in section 1(l) of the *Labour Relations Code* to whom Division 16 of Part 2 of the *Labour Relations Code* applies, or
 - (B) is an employee as defined in section 1(l) of the *Public Service Employee Relations Act* to whom that Act applies,
 - (ii) who is employed by an employer, and
 - (iii) who is represented by a trade union;
- (g) “employer”
 - (i) in respect of employees as defined in clause (f)(i)(A), means an employer as defined in section 1(m) of the *Labour Relations Code* to whom Division 16 of Part 2 of the *Labour Relations Code* applies,
 - (ii) in respect of employees as defined in clause (f)(i)(B), means an employer as defined in section 1(m) of the *Public Service Employee Relations Act* to whom that Act applies, and
 - (iii) in respect of a strike threat or strike, means an employer of employees to whom the strike threat relates or related or who are or were on strike;
- (h) “liability fund” means a liability fund established under section 10;
- (i) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act and before that determination is made means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for the *Labour Relations Code*;
- (j) “strike” means any of the following activities by 2 or more employees acting in combination, in concert or in accordance with a common understanding:

- (i) a cessation of work;
 - (ii) a refusal to work;
 - (iii) a refusal to continue to work;
 - (iv) a slowdown or other diminution of services;
 - (v) an activity that has the effect of restricting or disrupting production or service;
- (k) “strike threat” means
- (i) the calling or authorizing by a trade union or an officer or representative of a trade union of an employees’ strike,
 - (ii) a threat by a trade union or an officer or representative of a trade union to call or authorize an employees’ strike,
 - (iii) the setting of a vote or other poll of employees to determine whether they wish to strike, or
 - (iv) an act or threat to act that could reasonably be perceived as preparation for an employees’ strike;
- (l) “trade union”
- (i) in respect of employees as defined in clause (f)(i)(A), means a certified bargaining agent under the *Labour Relations Code* for the bargaining unit that includes those employees,
 - (ii) in respect of employees as defined in clause (f)(i)(B), means a certified bargaining agent under the *Public Service Employee Relations Act* for the bargaining unit that includes those employees, and
 - (iii) in respect of a strike threat or strike, means a trade union that is a certified bargaining agent under the *Labour Relations Code* or the *Public Service Employee Relations Act* for the bargaining unit that includes the employees to whom the strike threat relates or related, who are or were on strike or who would have been on strike if a strike consented to by

the trade union or any of its officers or representatives had occurred;

(2) Terms that

- (a) are defined in the *Labour Relations Code*, and
- (b) are not defined in this Act but are used in this Act in respect of employees as defined in subsection (1)(f)(i)(A),

have the same meaning as they have in the *Labour Relations Code* unless the context requires otherwise.

(3) Terms that

- (a) are defined in the *Public Service Employee Relations Act*, and
- (b) are not defined in this Act but are used in this Act in respect of employees as defined in subsection (1)(f)(i)(B),

have the same meaning as they have in the *Public Service Employee Relations Act* unless the context requires otherwise.

(4) Except in section 18(1),

- (a) references to an employee include an employee who is also an officer or representative of a trade union, and
- (b) references to an officer or representative of a trade union include an officer or representative of the trade union who is also an employee.

Duration of strike threat

2 For the purposes of this Act, a strike threat

- (a) begins when one or more employees, a trade union or any officer or representative of a trade union engages in any conduct that constitutes a strike threat, and
- (b) ends when
 - (i) the trade union gives unequivocal notice to the employer that the strike threat has ended and all actions of the employees and the trade union and its

officers and representatives are consistent with that notice, or

- (ii) the employer knows, or in all of the circumstances ought reasonably to know, that the strike threat has ended.

Application of other Acts

3(1) If there is a conflict between this Act and any provision of the *Labour Relations Code* or the *Public Service Employee Relations Act*, this Act prevails to the extent of the conflict.

(2) Subject to subsection (1), for the purposes of this Act as it applies in respect of employees as defined in section 1(1)(f)(i)(A), strike threats or strikes in respect of those employees, employers of those employees or trade unions that represent those employees, all the provisions of the *Labour Relations Code* relating

- (a) to the powers, privileges, immunities and jurisdictions of the Board, its Chair, vice-chairs, members and officers,
- (b) to hearings procedure,
- (c) to enforcement of orders, and
- (d) to judicial review,

apply and have effect in addition to the provisions of this Act, as if they formed part of this Act.

(3) Subject to subsection (1), for the purposes of this Act as it applies in respect of employees as defined in section 1(1)(f)(ii)(B), strike threats or strikes in respect of those employees, employers of those employees or trade unions that represent those employees, section 3 of the *Public Service Employee Relations Act* applies and has effect in addition to the provisions of this Act, as if it formed part of this Act.

Prohibitions

4(1) No employee and no trade union or officer or representative of a trade union shall cause or consent to a strike.

(2) No employee and no officer or representative of a trade union shall engage in or continue to engage in any conduct that constitutes a strike threat or a strike.

(3) No trade union shall engage in or continue to engage in any conduct that constitutes a strike threat.

(4) No person shall counsel a person to contravene subsection (1) or (2) or impede or prevent a person from refusing to contravene subsection (1) or (2).

(5) No trade union or officer or representative of a trade union shall, in any manner, discipline a person because that person does not contravene subsection (1) or (2).

Declaration

5(1) The Minister, an employer or an authorized person may apply to the Board for a declaration that a strike threat or a strike has occurred or is occurring.

(2) An application under subsection (1) must be served on the trade union at least 4 hours before it is heard.

(3) The Board

(a) shall expedite the hearing of an application under subsection (1) and may make any orders that it considers necessary for that purpose, and

(b) shall within 24 hours of hearing the application make a declaration as to whether a strike threat or a strike has or has not occurred or is or is not occurring.

(4) Where the Board declares under subsection (3)(b) that a strike threat is occurring, the Board shall issue a directive requiring the employees and the trade union and its officers and representatives to immediately cease engaging in all conduct that constitutes a strike threat.

(5) Where the Board declares under subsection (3)(b) that a strike is occurring, the Board shall

(a) issue a directive requiring the trade union to immediately instruct the employees who are on strike to end their strike,

- (b) issue a directive requiring the trade union to immediately instruct all employees in the bargaining unit to continue or resume, as the case may be, the duties of their employment without slowdown or other diminution of services, and
- (c) issue a directive requiring all employees in the bargaining unit to immediately continue or resume, as the case may be, the duties of their employment without slowdown or other diminution of services.

(6) Where the Board declares under subsection (3)(b) that a strike threat or a strike is occurring, the Board may, in addition to exercising any of its other powers, issue a directive requiring any employee, employer, trade union, officer or representative of a trade union or other person to do or refrain from doing anything specified in the directive with respect to any or all of the following:

- (a) the strike threat;
- (b) any future strike threat made for substantially the same reason in respect of employees in the bargaining unit;
- (c) the strike;
- (d) any future strike for substantially the same reason by employees in the bargaining unit.

(7) The Board shall file a copy of a directive issued under subsection (4), (5) or (6) with the Court and, on being filed, the directive is enforceable as if it were a judgment or order of the Court.

(8) Service of a directive issued under subsection (4), (5) or (6) in accordance with section 21 or any rules or directives of the Board, in addition to being service of the directive, is deemed to be service of notice that the directive has been filed with the Court and is enforceable as if it were a judgment or order of the Court.

(9) This section does not apply in respect of a strike threat or strike that ended before the coming into force of this section.

Suspension of dues

6(1) If the Board makes a declaration under section 5(3)(b), or the Court makes a declaration under section 9(1), that a strike threat or

a strike has occurred or is occurring, or if, after the coming into force of this section, the Board or the Court declares under the *Labour Relations Code* or the *Public Service Employee Relations Act* that a strike threat or a strike, within the meaning of the *Labour Relations Code* or the *Public Service Employee Relations Act*, as the case may be, has occurred or is occurring, the employer shall, in accordance with this section,

- (a) suspend the deduction from payroll of union dues, assessments and other fees that would otherwise be payable by employees in the bargaining unit, and
- (b) suspend the remittance of the union dues, assessments and other fees to the trade union.

(2) A suspension under subsection (1) must commence as soon as practicable, having regard to the employer's payroll arrangements, after

- (a) the 2 days referred to in subsection (4)(a) have expired without an application under subsection (3) being made by the trade union, or
- (b) any application made under subsection (3) has been disposed of by the Board,

whichever occurs first, and must continue for a period of 3 months for the first day or partial day on which the strike threat or strike occurs plus one additional month for each additional day or partial day on which the strike threat or strike continues.

(3) Where, on application, a trade union referred to in subsection (1)(b) satisfies the Board that

- (a) the strike threat or strike occurred against the express instructions of the trade union given before the strike threat or strike began,
- (b) all the actions of the trade union and its officers and representatives have been consistent with those express instructions since the instructions were given, and
- (c) neither the trade union nor any of its officers or representatives has, after the coming into force of this section, contravened section 4 in respect of the strike threat or strike,

the Board shall order that subsection (1) does not apply to union dues, assessments or other fees payable to the trade union by the employees in the bargaining unit.

(4) An application under subsection (3)

- (a) must be made within 2 days after the day on which the declaration referred to in subsection (1) is made in respect of the trade union or any employee in the bargaining unit, and
- (b) must be served on the Minister and the employer at least 12 hours before it is heard.

(5) Where, during a period of suspension, on application made by the Minister, an employer referred to in subsection (1), a trade union referred to in subsection (1)(b) or an authorized person, the Board is satisfied

- (a) that the strike threat or strike has ended, or
- (b) that
 - (i) the trade union has given express instructions to end the strike threat or strike,
 - (ii) all the actions of the trade union and its officers and representatives have been consistent with those express instructions since the instructions were given, and
 - (iii) all contraventions, if any, of section 4 by the trade union or its officers and representatives have ceased in respect of the strike or strike threat,

the Board may make an order specifying the day determined by the Board to be the first full day on which the matters referred to in clause (a) or (b) were true, and for the purposes of determining the length of a suspension period under this section, the strike threat or strike is deemed to have ended on the specified day.

(6) An application under subsection (5) must be served

- (a) if the application is made by the Minister, on the trade union and the employer,

- (b) if the application is made by the employer, on the trade union, the Minister and, if an authorized person made the application for the declaration referred to in subsection (1), on that authorized person, or
- (c) if the application is made by the trade union, on the employer, the Minister and, if an authorized person made the application for the declaration referred to in subsection (1), on that authorized person

at least 12 hours before it is heard.

(7) If, before the making of an order under subsection (5), the deduction and remittance of union dues, assessments or other fees were suspended in respect of any days or partial days subsequent to the day specified in the order, the order may include directions respecting their deduction and remittance.

(8) After a period of suspension under this section ends, the employer shall resume deducting and remitting union dues, assessments and other fees, but no employer shall at any time deduct or remit any union dues, assessments or other fees in respect of a period of suspension.

(9) This section does not apply in respect of a strike threat or strike that ended before the coming into force of this section.

Employee protected

7 Notwithstanding any provision of a collective agreement or an enactment, an employee does not become ineligible for employment with an employer only because the employee fails to pay union dues, assessments or other fees the deduction and remittance of which have been suspended under section 6.

Agreements void

8(1) No trade union shall enter into an agreement with an employer, and no employer shall enter into an agreement with a trade union, for the provision of compensation

- (a) for the suspension of the deduction or remittance of union dues, assessments or other fees under section 6, or

- (b) in substitution for union dues, assessments or other fees the deduction and remittance of which are suspended under section 6.

(2) Any agreement entered into in contravention of subsection (1) is void.

Abatement order

9(1) Where, on an originating application made under this subsection by the Minister, an employer or an authorized person, the Court is satisfied that a strike threat or a strike has occurred or is occurring, the Court shall make a declaration to that effect and shall make an abatement order in accordance with subsection (6).

(2) Where

- (a) under section 5(3)(b) the Board declares that a strike threat or a strike has occurred or is occurring, or
- (b) after the coming into force of this section, the Board declares under the *Labour Relations Code* or the *Public Service Employee Relations Act* that a strike threat or a strike, within the meaning of the *Labour Relations Code* or the *Public Service Employee Relations Act*, as the case may be, has occurred or is occurring,

the Court shall, on an originating application made under this subsection by the Minister, an employer or an authorized person, make an abatement order in accordance with subsection (6).

(3) An originating application under subsection (1) or (2)

- (a) must be supported by affidavit evidence, which may be based on information and belief, and
- (b) must be served on the trade union at least 12 hours before it is heard.

(4) Notwithstanding that more than one employer applies under this section in respect of the same strike threat or strike, the Court may make only one abatement order with respect to that strike threat or strike.

(5) The Court shall expedite the hearing of an application under subsection (1) or (2) and may make any orders that it considers necessary for that purpose.

(6) An abatement order

- (a) must, subject to subsections (10) and (11), require the trade union to pay into Court the amounts required under subsection (8) within the time provided by subsection (9)(a) or (b), whichever is applicable, and
- (b) must include the following orders, as applicable:
 - (i) if a strike threat is occurring, an order requiring the employees and the trade union and its officers and representatives to immediately cease engaging in all conduct that constitutes a strike threat;
 - (ii) if a strike is occurring,
 - (A) an order that the trade union immediately instruct the employees who are on strike to end their strike,
 - (B) an order that the trade union immediately instruct all employees in the bargaining unit to continue or resume, as the case may be, the duties of their employment without slowdown or other diminution of services, and
 - (C) an order that all employees in the bargaining unit immediately continue or resume, as the case may be, the duties of their employment without slowdown or other diminution of services,

and

- (c) may include any other order or direction the Court considers necessary or appropriate in the circumstances.

(7) If there is a conflict between an abatement order and any declaration or directive of the Board under this Act, the *Labour Relations Code* or the *Public Service Employee Relations Act*, the abatement order prevails to the extent of the conflict.

(8) The amounts to be paid into Court under an abatement order are \$1 000 000 for each day or partial day on which a strike threat or a strike occurs or continues.

(9) The times by which amounts payable under an abatement order must be paid into Court are as follows:

- (a) if the strike threat or strike ends before the day on which the abatement order is served on the trade union, all amounts payable under the abatement order must be paid within 7 days after that day;
- (b) if the strike threat or strike occurs or continues on the day on which the abatement order is served on the trade union,
 - (i) the amount payable under the abatement order for the day on which the abatement order is served on the trade union must be paid by the end of the day that immediately follows that day,
 - (ii) an amount payable under the abatement order for a day subsequent to the day on which the abatement order is served on the trade union must be paid by the end of the day that immediately follows the day for which the amount is payable, and
 - (iii) all amounts payable under the abatement order for days or partial days that elapsed before the day on which the abatement order is served on the trade union must be paid within 7 days after that day.

(10) No amount is payable under subsection (8) where the trade union satisfies the Court that

- (a) the strike threat or strike occurred against the express instructions of the trade union given before the strike threat or strike began,
- (b) all the actions of the trade union and its officers and representatives have been consistent with those express instructions since the instructions were given, and
- (c) neither the trade union nor any of its officers or representatives has, after the coming into force of this section, contravened section 4 in respect of the strike threat or strike.

(11) Where a declaration referred to in subsection (1) or (2) has been made and, on application, the trade union satisfies the Court

- (a) that the strike threat or strike has ended, or
- (b) that
 - (i) the trade union has given express instructions to end the strike threat or strike,
 - (ii) all the actions of the trade union and its officers and representatives have been consistent with those express instructions since the instructions were given, and
 - (iii) all contraventions, if any, of section 4 by the trade union or its officers and representatives have ceased in respect of the strike or strike threat,

the Court shall order that the obligation to make payments under subsection (8) terminates on the day that the Court has determined to be the first full day on which the matters referred to in clause (a) or (b) were true, and shall specify that day in the order.

(12) A copy of an application under subsection (11) must be served on the following at least 12 hours before the application is heard:

- (a) the employer;
- (b) the Minister, if the Minister or the employer made the application for the abatement order;
- (c) if an authorized person made the application for the abatement order, on that authorized person.

(13) No abatement order is available and no application under this section may be made in respect of a strike threat or strike that ended before the coming into force of this section.

Liability fund

10(1) Where an amount is paid into Court under an abatement order or where under section 13(6) the Court directs an amount be paid into a liability fund for a trade union, the clerk of the Court shall establish a segregated account identified as a liability fund for

the trade union to which the order or direction relates and shall deposit the amount into that account.

(2) Any interest earned on the liability fund forms part of the fund.

(3) No amounts may be paid out of the liability fund except in accordance with section 11 or 12.

Recovery of eligible losses

11(1) In this section, “eligible losses” means costs and other losses referred to in subsection (2).

(2) A trade union is liable to an employer for losses suffered by the employer that result from a strike threat or a strike, including, without limitation, all costs arising from

- (a) the development and implementation of contingency plans that were reasonably required for the purpose of dealing with the results or anticipated results of the strike threat or strike, and
- (b) the implementation of alternative arrangements that were reasonably required as a result of the strike threat or strike.

(3) Not later than 2 years after the day on which a strike threat or strike referred to in subsection (2) ends, any employer that has suffered eligible losses may apply to the Court for judgment under subsection (7).

(4) An application under subsection (3) must be supported by affidavit evidence setting out the nature and amount of the eligible losses suffered, and the affidavit evidence may be based on information and belief.

(5) An employer that applies under subsection (3) shall give notice of the application to the trade union and to the Minister.

(6) The Court shall determine all questions that it considers necessary to be determined in order to deal with all matters arising out of an application under this section, and for that purpose may make all inquiries and do all other things that it considers necessary, including, without limitation, the giving of directions and the making of orders under the *Alberta Rules of Court*

- (a) for the trial of an issue,
- (b) for the determination of a question of law,
- (c) for a referral to a referee,
- (d) for the production of documents,
- (e) for the questioning under oath of any person, and
- (f) for written interrogatories.

(7) Where the Court determines that an employer has suffered eligible losses, the Court shall, subject to subsection (8), grant judgment in favour of the employer against the trade union for the amount of the eligible losses as determined by the Court.

(8) The Court may, notwithstanding a determination that an employer has suffered losses resulting from a strike threat or a strike, order that the trade union is not liable to pay for the eligible losses if the trade union satisfies the Court that

- (a) the strike threat or strike occurred against the express instructions of the trade union given before the strike threat or strike began,
- (b) all the actions of the trade union and its officers and representatives have been consistent with those express instructions since the instructions were given, and
- (c) neither the trade union nor any of its officers or representatives has, after the coming into force of this section, contravened section 4 in respect of the strike threat or strike.

(9) Where the Court grants judgment under subsection (7), the Court shall, if a liability fund has been established in respect of the strike threat or strike, order that money be paid out of the liability fund to satisfy the judgment, together with interest and any costs awarded.

(10) Where the amount of a judgment under subsection (7), together with interest and costs, exceeds the amount in the liability fund, the Court shall order that all the money in the liability fund be paid in partial satisfaction of the judgment.

(11) Subject to section 12(2), after

- (a) the 2 years referred to in subsection (3) have expired without an application being made under that subsection, or
- (b) any judgments obtained under this section have been paid,

whichever is later, any amount remaining in the liability fund must be returned to the trade union.

Other remedies

12(1) The remedies, if any, given to an employer under section 11 in respect of a trade union are in addition to any other remedies available at law to the employer for the recovery of losses from the trade union in respect of a strike threat or a strike and do not replace, limit or abrogate those other remedies.

(2) An employer that is seeking a remedy other than under section 11 against a trade union in the form of monetary compensation for losses resulting from a strike threat or strike may, not later than 2 years after the day on which the strike threat or strike ends, give notice of that fact to the Court and the trade union, and after the notice is given no amount shall be returned to the trade union from any liability fund established for that trade union until after the proceeding in which the remedy is sought is completed and any monetary compensation ordered to be paid to the employer has been fully paid.

(3) Where in a proceeding in respect of which a notice has been given under subsection (2) a trade union is found liable to pay monetary compensation to an employer for losses resulting from a strike threat or a strike, the Court shall, if a liability fund has been established for that trade union, order that money be paid out of the liability fund to pay for the losses.

(4) Where an ordered amount of monetary compensation referred to in subsections (2) and (3), together with interest and costs, exceeds the amount in the liability fund, the Court shall order that all the money in the liability fund be paid in partial satisfaction of the ordered monetary compensation.

Arrangements to defeat, hinder or delay

13(1) In this section, “liquid assets” means

- (a) cash,

- (b) demand deposits in a financial institution,
- (c) Treasury Bills of the Government of Canada,
- (d) term deposits or other similar instruments issued by a financial institution that mature within 100 days after the date of issue,
- (e) securities issued or guaranteed by the Government of Canada, the government of a province or territory or a municipality, or
- (f) any other assets that are readily convertible to cash.

(2) Where, on the application of the Minister, an employer or an authorized person, the Court is satisfied that

- (a) a trade union is in default of
 - (i) a payment required to be made under an abatement order,
 - (ii) a payment required to be made under an order under section 14, or
 - (iii) a fine that is ordered to be paid under this Act or that, after the coming into force of this section, is ordered to be paid under the *Labour Relations Code* or the *Public Service Employee Relations Act* by the trade union as the certified bargaining agent for employees,
- (b) the trade union has, whether before or after the coming into force of this Act,
 - (i) transferred liquid assets to any person or organization, or
 - (ii) entered into an arrangement whereby another person or organization administers or controls liquid assets of the trade union,

and

- (c) it appears to the Court, in all of the circumstances, that the transfer or arrangement referred to in clause (b) was made with an intention, whether the intention was formed

before or after the payment or fine was ordered, to avoid or delay the paying of the payment or fine referred to in clause (a) or any other payment or fine under this Act, the *Labour Relations Code* or the *Public Service Employee Relations Act*,

the Court may, subject to subsections (4) and (5), order the person or organization to pay into Court

- (d) any amount that, up to and including the day of the order, is outstanding in respect of the payment or fine referred to in clause (a), and
- (e) future periodic amounts to discharge any payments that will become payable in the future in respect of the payment or fine referred to in clause (a).

(3) A person's or an organization's obligation to make payments into Court under subsection (2)(e) continues until the Court directs otherwise.

(4) The Court shall not make an order under subsection (2) if the trade union or the person or organization referred to in that subsection satisfies the Court that the transfer or arrangement was made for a legitimate business purpose and that, in the case of a transfer of liquid assets, the consideration received for the transfer was reasonable in relation to the value of the liquid assets that were transferred.

(5) No order under this section may order the person or organization to pay into Court an amount that is greater than the value of liquid assets transferred to the person or organization or administered or controlled by the person or organization under an arrangement referred to in subsection (2)(b)(ii).

(6) Where under this section an amount is paid into Court in respect of a payment referred to in subsection (2)(a)(i), the Court shall direct that the amount be paid into a liability fund for the trade union.

(7) Where under this section an amount is paid into Court in respect of a payment referred to in subsection (2)(a)(ii) or a fine referred to in subsection (2)(a)(iii), the Court shall direct that the amount outstanding in respect of the payment or fine be paid out of the amount paid into Court.

Civil contempt

14(1) A person or a trade union or other organization that, without reasonable excuse, contravenes or fails to comply with

- (a) a directive that is filed with the Court under section 5(7),
- (b) a provision of an abatement order, or
- (c) a provision of an order under section 13(2)

is in civil contempt.

(2) Any person that made or was entitled to make an application for a directive referred to in subsection (1)(a), an abatement order referred to in subsection (1)(b) or an order referred to in subsection (1)(c) may, on not less than 12 hours' notice to a person or a trade union or other organization, apply to the Court for a declaration that the person or the trade union or other organization is in contempt under subsection (1)(a), (b) or (c), as the case may be.

(3) Subsections (1) and (2) apply notwithstanding Rule 10.52 of the *Alberta Rules of Court*.

(4) Where the contempt consists of the failure to pay an amount into Court under an abatement order or an order under section 13(2), the Court may, in addition to any other powers it has under Part 10, Division 4, Subdivision 2 of the *Alberta Rules of Court*, make any orders that it considers necessary to enforce payment of the amounts owing.

(5) Where the Court orders the payment of a fine, the fine does not reduce the liability for amounts payable under an abatement order or an order under section 13(2).

Evidence

15 In acting under section 13 or 14 the Court may, for the purpose of inquiring into transactions involving the assets of the trade union, order the questioning under oath of

- (a) any officer, representative or employee of the trade union, and
- (b) any person or organization, or any officer, representative or employee of any person or organization, with whom

the trade union might have entered into a transaction involving the assets of the trade union.

Administrative penalties

16(1) If the Minister or a delegate appointed under the regulations is of the opinion that an employee has contravened section 4(1), (2) or (4), the Minister or delegate may, by notice in writing served on the employee, require the employee to pay to the Crown an administrative penalty in the amount determined in accordance with this section and the regulations and set out in the notice.

(2) The amount of an administrative penalty for an employee referred to in subsection (1) must not exceed the amount determined by multiplying the number of days or partial days on which the contravention occurred or continued by an amount equal to one day's pay for that employee.

(3) A notice of administrative penalty must be served in accordance with the regulations and must set out the amount of the administrative penalty and any other information required under the regulations.

(4) Subject to any reconsideration under section 17 and to the right of appeal under subsection (6), an administrative penalty imposed under subsection (1) must be paid within 30 days of the day on which the notice of administrative penalty is served.

(5) A notice of administrative penalty may be served within one year after

- (a) the last day on which the contravention occurred, in the case of a contravention that continued for more than one day, or
- (b) in any other case, the day on which the contravention occurred,

but not afterwards.

(6) An administrative penalty may be appealed to the Board in accordance with the regulations.

(7) Subject to any reconsideration under section 17 and to the right of appeal under subsection (6), where an employee fails to pay an administrative penalty in accordance with the notice of

administrative penalty and the regulations, the Minister or delegate may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench, and on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

(8) A person on whom an administrative penalty is imposed and who pays the administrative penalty shall not be charged under this Act with an offence in respect of the same contravention that is described in the notice of administrative penalty.

Reconsideration of administrative penalty

17(1) Where the Minister or a delegate referred to in section 16(1) imposes an administrative penalty on an employee, the employee may request the Minister or delegate, as the case may be, to reconsider the administrative penalty, and the Minister or delegate may, in the Minister's or delegate's sole discretion, reconsider and confirm, vary or revoke the administrative penalty.

(2) Subject to the regulations, the Minister or delegate may conduct a reconsideration with or without conducting a hearing.

(3) On completing a reconsideration, the Minister or delegate shall ensure that the decision, in writing, with reasons, is served on the employee who requested the reconsideration.

(4) A decision under this section may be appealed to the Board in accordance with the regulations.

Offences and penalties

18(1) A person or a trade union or other organization that contravenes or fails to comply with section 4(1), (2), (3), (4) or (5), 6(1)(a) or (b) or (8) or 8(1)(a) or (b), a provision of an abatement order or of an order under section 13(2) or a directive of the Board under section 5(4), (5)(a), (b) or (c) or (6) is guilty of an offence and liable

- (a) in the case of an employer or trade union, to a fine of the sum of
 - (i) \$250 000, and
 - (ii) the amount determined by multiplying \$50 by the number of employees who, on the day the offence

occurs or, in the case of an offence that continues for more than one day, on the last day or partial day on which the offence occurs or continues, belong to the bargaining unit to which the offence relates

for each day or partial day on which the offence occurs or continues,

- (b) in the case of an officer or representative of a trade union, including an officer or representative who is an employee within the bargaining unit to which the offence relates, to a fine of \$10 000 for each day or partial day on which the offence occurs or continues,
- (c) in the case of an employee who is not an officer or representative referred to in clause (b), to a fine not exceeding the amount determined by multiplying the number of days or partial days on which the offence occurs or continues by an amount equal to one day's pay for that employee, or
- (d) in the case of a person to whom or an organization to which none of clauses (a), (b) or (c) applies, to a fine of \$500 for each day or partial day on which the offence occurs or continues.

(2) Notwithstanding the *Provincial Offences Procedure Act*, no order for imprisonment shall be made for default of payment of a fine in respect of an offence under this Act.

Minister's consent to prosecution

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

Limitation period

20 A prosecution for an offence under this Act may be commenced within one year after

- (a) the last day on which the alleged offence occurred, in the case of an offence that continued for more than one day, or
- (b) in any other case, the day on which the alleged offence occurred,

but not afterwards.

Service of documents

21 Where this Act requires or permits a notice or other document to be served on an employer or a trade union, the notice or other document may be served

- (a) by giving it personally to
 - (i) a director, officer or executive manager, in the case of an employer, or
 - (ii) an officer or representative, in the case of a trade union,
- (b) by leaving it at the most recent business address shown for the employer or the trade union, as the case may be, in the records of the Board, or
- (c) by any other method of service in accordance with the *Alberta Rules of Court* or the rules of the Board.

Capacity of trade union

22 For the purposes of this Act, a trade union is capable of being prosecuted and being sued.

Authorization to make certain applications

23 The Lieutenant Governor in Council may, by order, authorize persons or classes of persons to make applications under any or all of sections 5(1), 6(5), 9(1) and (2) and 13(2), either generally or in respect of a particular strike threat, strike, employer or trade union or class of any of them, and the order may authorize persons by their names or by the names of their offices.

Regulations

24 The Lieutenant Governor in Council may make regulations

- (a) defining terms that are used but not defined in this Act, including, without limitation, terms referred to in section 1(2) or (3);

- (b) respecting what is one day's pay for the purposes of section 16(2) and 18(1)(c) and respecting requirements for employees and employers to provide pay information to enable the Minister or a delegate to determine an amount referred to in section 16(2) or to enable the Court to determine an amount referred to in section 18(1)(c);
- (c) respecting administrative penalties, including, without limitation, regulations respecting
 - (i) delegates referred to in section 16(1), the appointment of the delegates and the powers that may be exercised for the purposes of section 16 by the Minister and any delegates;
 - (ii) contents of notices of administrative penalty;
 - (iii) service of notices of administrative penalty;
 - (iv) reconsiderations of administrative penalties, requests for reconsiderations and service of decisions made on reconsiderations;
 - (v) appeals of administrative penalties and of reconsiderations of administrative penalties, including regulations establishing and respecting the powers of the Board on appeals;
 - (vi) any other matter the Lieutenant Governor in Council considers necessary or advisable for the administration of the system of administrative penalties;
- (d) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary or advisable for carrying out the intent of this Act.

Coming into force

25 This Act comes into force on Proclamation.

