

2020 Bill 32

---

Second Session, 30th Legislature, 69 Elizabeth II

---

THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 32**

**RESTORING BALANCE IN ALBERTA'S  
WORKPLACES ACT, 2020**

---

---

THE MINISTER OF LABOUR AND IMMIGRATION

---

---

First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

---

---

## BILL 32

2020

### RESTORING BALANCE IN ALBERTA'S WORKPLACES ACT, 2020

(Assented to \_\_\_\_\_, 2020)

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

#### Part 1

##### Employment Standards Code

Amends RSA 2000 cE-9

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

**(2)** Section 1(1) is amended

**(a)** by repealing clause (b);

**(b)** by adding the following before clause (c):

(b.1) “averaging arrangement” means an hours of work averaging arrangement under section 23.1;

(b.2) “averaging period” means the period over which hours of work are averaged under an averaging arrangement;

**(c)** by repealing clause (s.1) and substituting the following:

(s.1) “overtime hours” means

(i) overtime hours determined in accordance with section 21, or

## Explanatory Notes

### Employment Standards Code

1(1) Amends chapter E-9 of the Revised Statutes of Alberta 2000.

(2) Section 1(1) presently reads in part:

*1(1) In this Act,*

*(b) “average daily wage” means 5% of an employee’s wages, vacation pay and general holiday pay earned in the 4 weeks immediately preceding a general holiday;*

*(c) “collection notice” means a notice served by the Director under section 122;*

*(s.1) “overtime hours” means overtime hours determined in accordance with section 21;*

- (ii) for the purposes of entitlement to overtime under an averaging arrangement, overtime hours determined in accordance with the regulations;

**(3) Section 8(2) is repealed and the following is substituted:**

**(2)** When an employee's employment terminates, the employer must pay the employee's earnings within whichever of the following periods the employer chooses:

- (a) 10 consecutive days after the end of the pay period in which the termination of employment occurs;
- (b) 31 consecutive days after the last day of employment.

**(4) Sections 9 and 10 are repealed.**

(3) Section 8(2) presently reads:

*(2) When employment ends, earnings must be paid by an employer within the time described in section 9 or 10.*

(4) Sections 9 and 10 presently read:

*9(1) When an employer terminates an employee's employment by*

- (a) a termination notice under section 56 or section 137(1) if that section applies,*
- (b) termination pay under section 57(1) instead of a termination notice, or*
- (c) a combination of a termination notice and termination pay under section 57(2),*

*the employer must pay the employee's earnings not later than 3 consecutive days after the last day of employment.*

*(2) When an employer terminates an employee's employment and no termination notice or termination pay is required to be given, the employer must pay the employee's earnings not later than 10 consecutive days after the last day of employment.*

*10(1) When an employee terminates employment by giving a termination notice under section 58, the employer must pay the employee's earnings not later than 3 consecutive days after the last day of employment.*

*(2) When an employee terminates employment and a termination notice is not required, the employer must pay the employee's earnings not later than 10 consecutive days after the last day of employment.*

**(5) Section 12 is amended**

**(a) in subsection (2) by adding the following after clause (a):**

(a.1) a recovery of an overpayment of earnings paid to the employee resulting from a payroll calculation error,

(a.2) a recovery of vacation pay paid to the employee in advance of the employee being entitled to it,

**(b) by adding the following after subsection (2):**

**(2.1)** An employer must not deduct from the earnings of an employee a sum of money referred to in subsection (2)(a.1) more than 6 months after the overpayment was paid to the employee.

**(c) by adding the following after subsection (3):**

**(4)** An employer must give an employee written notice of a deduction from earnings under subsection (2)(a.1) or (a.2) before making the deduction.

**(6) Section 14(4)(f.2) is amended by striking out “hours of work averaging agreements” and substituting “averaging arrangements”.**

*(3) When an employee is required to give a termination notice but terminates employment without doing so, the employer must pay the employee's earnings not later than 10 consecutive days after the date on which the notice would have expired if it had been given.*

(5) Section 12 presently reads in part:

*(2) An employer may deduct from the earnings of an employee a sum of money that is*

- (a) permitted or required to be deducted by an Act or regulation, including a regulation under this Act, or a judgment or order of a court,*
- (b) authorized to be deducted by a collective agreement that is binding on the employee, or*
- (c) personally authorized in writing by the employee to be deducted.*

*(3) Despite an authorization in a collective agreement or a written authorization by an employee, an employer must not deduct from earnings a sum for*

- (a) faulty work, as defined in the regulations, of the employee or damage caused by the employee,*
- (b) cash shortages or loss of property if an individual other than the employee had access to the cash or property,*
- (c) cash shortages resulting from a failure to collect all or any part of the purchase price from a purchaser, or*
- (d) any other circumstance specified by the regulations.*

(6) Section 14(4) presently reads in part:

*(4) An employer must keep an up-to-date record of the following additional information for each employee:*

- (f.2) copies of hours of work averaging agreements under section 23.1;*

**(7) Section 16 is amended by adding the following after subsection (2):**

(3) This section does not apply if different hours of work confinement provisions are agreed to under a collective agreement.

**(8) Section 17 is amended by adding the following after subsection (2):**

(3) This section does not apply if different notice or hours of rest provisions are agreed to under a collective agreement.

**(9) Section 18 is repealed and the following is substituted:**

**Rest periods**

**18(1)** Subject to subsection (3), an employer must provide an employee who works a shift that exceeds 5 hours but is less than 10 hours with at least one rest period of at least 30 minutes, whether paid or unpaid.

(2) Subject to subsection (3), an employer must provide an employee who works a shift of 10 hours or more with at least 2 rest periods of at least 30 minutes each, whether paid or unpaid.

(3) If an employer and an employee agree, a rest period under subsection (1) or (2) may be taken in 2 periods of at least 15 minutes each.

(4) A rest period under this section may be taken at a time agreed to by an employer and an employee.

(5) If an employer and an employee do not agree on a rest period schedule for a shift,

- (a) the employer must provide a rest period of at least 30 minutes, at a time chosen by the employer, within or immediately following the first 5 hours of the shift, and
- (b) if required under subsection (2), the employer must provide a 2nd rest period of at least 30 minutes, at a time chosen by the employer, after the first 5 hours of the shift.

(7) Section 16 presently reads in part:

*(2) If hours of work have to be extended, they are to be increased only to the extent necessary to avoid serious interference with the ordinary working of a business, undertaking or other activity.*

(8) Section 17 presently reads in part:

*(2) An employer must not require an employee to change from one shift to another without at least 24 hours' written notice and 8 hours of rest between shifts.*

(9) Section 18 presently reads:

*18(1) An employer must provide each employee who works 5 hours or more with at least 30 minutes of rest, whether paid or unpaid, within every 5 consecutive hours of work unless*

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

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

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

*(2) If an employer and an employee agree, each rest period under subsection (1) may be taken in 2 periods of at least 15 minutes.*

(6) This section does not apply if

- (a) an accident occurs, urgent work is necessary or other unforeseeable or unpreventable circumstances occur,
- (b) different rest provisions are agreed to under a collective agreement, or
- (c) it is not reasonable for the employee to take a rest period.

**(10) Section 19 is amended by adding the following after subsection (2):**

(3) This section does not apply if different days of rest provisions are agreed to under a collective agreement.

**(11) Section 23.1 is amended**

**(a) in subsection (1)**

- (i) **by striking out** “an employee or a group of employees may enter into an hours of work averaging agreement” **and substituting** “if an employer and an employee or a group of employees are not bound by a collective agreement, the employer may require or permit the employee or group of employees to work an averaging arrangement”;
- (ii) **by striking out** “12” **and substituting** “52”;

**(b) by adding the following after subsection (1):**

**(1.1)** An employer must give at least 2 weeks’ written notice of a requirement to work an averaging arrangement to each employee to whom the requirement applies unless the employer and the employee agree otherwise.

**(1.2)** Subsection (1.1) does not apply in respect of an employee if the employer gave written notice of the requirement to work the averaging arrangement to the employee before the employee’s employment began.

(10) Section 19 presently reads in part:

*(2) Every employer must allow each employee at least 4 consecutive days of rest after each 24 consecutive work days.*

(11) Section 23.1 presently reads in part:

*23.1(1) Subject to the regulations, an employee or a group of employees may enter into an hours of work averaging agreement that provides that the employer will average an employee's hours of work over a period of one to 12 weeks for the purpose of determining the employee's entitlement to overtime pay or, instead of overtime pay, time off with pay.*

*(2) An hours of work averaging agreement under this section may be part of a collective agreement, or if there is no collective agreement, be in a written agreement between an employer and*

*(a) an employee, or*

*(b) a group of employees where the majority of the group agrees.*

*(3) An agreement under subsection (1) must*

*(a) be in writing,*

*(b) provide a start date and end date, which must provide for a term that does not exceed 2 years, except that in the case of an agreement that is part of a collective agreement, the agreement terminates the day a subsequent collective agreement is entered into,*

**(1.3)** Subject to the regulations, an employer or an employer's organization and a bargaining agent may agree to an averaging arrangement as part of a collective agreement.

**(c) by repealing subsection (2) and substituting the following:**

**(2)** If there is no collective agreement, an averaging arrangement under this section must be a written arrangement applying to an employer and an employee or a group of employees.

**(d) in subsection (3)**

**(i) in the portion preceding clause (a) by striking out "agreement under subsection (1)" and substituting "averaging arrangement";**

**(ii) by repealing clause (b);**

**(iii) in clause (c) by striking out "12 weeks unless authorized by a permit issued by the Director" and substituting "52 weeks unless authorized by a variance or exemption under section 74 or 74.1";**

**(iv) by repealing clause (d) and substituting the following:**

**(d)** unless a collective agreement provides otherwise, include a schedule setting out the daily and weekly hours of work for the averaging period and, if the averaging arrangement specifies the matters set out in subsection (4), a statement that the employer may amend the schedule in accordance with the averaging arrangement, and

**(e) by repealing subsection (4) and substituting the following:**

**(4)** Despite the requirement for at least 24 hours' written notice in section 17(2), if an averaging arrangement specifies the manner in which an employer may amend the schedule of daily and weekly hours of work in respect of an employee, the notice required to be given to the employee and the manner in which

- (c) specify the number of weeks over which hours will be averaged, which must not exceed 12 weeks unless authorized by a permit issued by the Director,*
  - (d) specify the scheduled daily and weekly hours of work, which must not exceed
    - (i) 12 hours per day, and*
    - (ii) 44 hours per week if the agreement specifies a one-week period, or an average of 44 hours per week if the agreement specifies a period of more than one week;**
  - (e) specify the manner in which overtime pay and time off with pay instead of overtime pay will be calculated as provided for in the regulations.*
- (4) An agreement under subsection (1) applies to an employee in a group of employees bound by the agreement whether or not the employee was employed by the employer at the time the agreement was entered into.*
- (5) The employer must provide every employee to which the agreement applies a copy of the agreement in accordance with the regulations.*
- (6) No employer who is a party to an agreement under subsection (1) shall fail to pay overtime in accordance with the agreement or otherwise fail to comply with the agreement.*
- (7) The Director may, subject to and in accordance with the regulations, cancel an agreement under subsection (1) and must notify the employer of the cancellation.*

the notice must be given, the employer may amend the schedule in accordance with the averaging arrangement.

**(f) in subsection (5) by striking out** “every employee to which the agreement applies a copy of the agreement” **and substituting** “each employee to whom an averaging arrangement applies a copy of the averaging arrangement”;

**(g) in subsection (6)**

**(i) by striking out** “who is a party to an agreement under subsection (1)” **and substituting** “to which an averaging arrangement applies”;

**(ii) by striking out** “the agreement” **wherever it occurs and substituting** “the averaging arrangement”;

**(h) in subsection (7) by striking out** “agreement under subsection (1)” **and substituting** “averaging arrangement”.

**(12) The following is added before section 25:**

**Average daily wage**

**24.1** In this Division, the average daily wage of an employee, in relation to a general holiday, is calculated by averaging the employee’s total wages in whichever of the following periods the employer chooses over the number of days worked by the employee in the period:

- (a) the 4-week period immediately preceding the general holiday;
- (b) the 4-week period ending on the last day of the pay period immediately preceding the general holiday.

**(13) Section 34 is amended**

**(a) by renumbering it as section 34(1);**

**(b) by adding the following after subsection (1):**

**(2)** For greater certainty, a period during which an employee is on leave under Divisions 7 to 7.6 is included when calculating the employee’s years of employment for the purposes of subsection (1).

(12) Average daily wage.

(13) Section 34 presently reads:

*34 An employer must provide an annual vacation to an employee of at least*

*(a) 2 weeks after each of the first 4 years of employment, and*

*(b) 3 weeks after 5 consecutive years of employment and each year of employment after that,*

**(14) Section 55(1)(a) is amended by striking out** “a termination notice of at least the period of notice required under section 137(1) if that section applies, or in any other case,”.

**(15) Section 62(2) is repealed.**

**(16) Section 63 is amended**

**(a) in subsection (1) by striking out** “60 days within a 120-day period is deemed to have been terminated” **and substituting** “90 days within a 120-day period terminates, and termination pay is payable,”;

**(b) by adding the following after subsection (2):**

**(3)** For the purposes of determining the amount of termination pay payable under subsections (1) and (2), the amount is to be calculated as if section 57(1) applies.

(14) Section 55(1) presently reads:

*55(1) An employer may terminate the employment of an employee only by giving the employee*

- (a) a termination notice of at least the period of notice required under section 137(1) if that section applies, or in any other case, a termination notice under section 56,*
- (b) termination pay under section 57(1), or*
- (c) a combination of termination notice and termination pay under section 57(2).*

(15) Section 62(2) presently reads:

*(2) Unless a collective agreement provides otherwise, a layoff notice must be given to the employee*

- (a) at least one week prior to the date that the layoff is to commence, if the employee has been employed by the employer for less than 2 years,*
- (b) at least 2 weeks prior to the date that the layoff is to commence, if the employee has been employed by the employer for 2 years or more, or*
- (c) if unforeseeable circumstances prevent an employer from providing the notice in accordance with clause (a) or (b), as soon as is practicable in the circumstances.*

(16) Section 63 presently reads:

*63(1) The employment of an employee who is laid off for one or more periods exceeding, in total, 60 days within a 120-day period is deemed to have been terminated unless*

- (a) during the layoff the employer, by agreement with the employee,*
  - (i) pays the employee wages or an amount instead of wages,*  
*or*

**(c) by adding the following after subsection (3):**

**(4)** Subsections (1) and (2) do not apply if different provisions for termination after temporary layoff are agreed to under a collective agreement.

**(17) Section 63.1(2) is repealed and the following is substituted:**

**(2)** Notwithstanding section 63, with respect to an employee who is laid off for reasons related to COVID-19, the reference in that section to “one or more periods exceeding, in total, 90 days within a 120-day period” is to be read as “more than 180 consecutive days”.

**(18) Section 74 is amended**

**(a) in subsection (1)**

- (i) in the portion preceding clause (a) by adding “, an employer association or a group of employers” after “an employer”;**
- (ii) in clause (a) by striking out “that employer and the employees” and substituting “the employer or employers, and the employee or employees,”;**
- (iii) in clause (b) by striking out “that employer” and substituting “the employer or employers”;**

**(b) by repealing subsection (2);**

**(c) in subsection (3)**

- (i) in clause (a) by striking out “and”;**
- (ii) by repealing clause (b);**

(ii) *makes payments for the benefit of the laid-off employee in accordance with a pension or employee insurance plan or similar plan,*

*or*

(b) *there is a collective agreement binding the employer and employee containing recall rights for employees following layoff.*

(2) *When payments under subsection (1)(a) cease or recall rights under subsection (1)(b) expire, the employment of the employee terminates and termination pay is payable.*

(17) Section 63.1(2) presently reads:

*(2) Notwithstanding section 63, with respect to an employee who is laid off for reasons related to COVID-19, the reference in that section to “one or more periods exceeding, in total, 60 days within a 120-day period” is to be read as “more than 180 consecutive days”.*

(18) Section 74 presently reads in part:

*74(1) Subject to subsection (3), the Director may on application by an employer issue a variance or exemption to vary or exempt the application of one or more provisions of this Act or the regulations*

*(a) with respect to that employer and the employees referred to in the application, or*

*(b) with respect to a type of employment carried on by that employer.*

*(2) Subsection (1) does not apply to an application by an employer association or to a group of employers.*

*(3) The Director may issue a variance or exemption under this section only if*

*(a) the provision to be varied or exempted and the extent to which it may be varied or exempted is authorized by the regulations to be varied or exempted under this section, and*

- (d) **in subsection (4) by adding** “, employer association or group of employers” **after** “the employer”;
- (e) **in subsection (5)(b) by striking out** “the employer and the employees of the employer” **and substituting** “the employer, employers or group of employers, and the employee or employees.”;
- (f) **by repealing subsection (6) and substituting the following:**
  - (6) On the issuance of a variance or exemption, an employer to whom the variance or exemption applies must provide a copy of the variance or exemption to each employee to whom the variance or exemption applies.
- (g) **in subsection (7) by striking out** “The employer and the employees affected by the variance or exemption” **and substituting** “An employer or employee to whom a variance or exemption applies”;
- (h) **in subsection (9) by adding** “, employer association or group of employers to whom the variance or exemption applies” **after** “the employer”;
- (i) **by repealing subsection (10) and substituting the following:**
  - (10) An employer to whom a variance or exemption applies must provide a copy of an amendment or revocation of the variance or exemption to each employee to whom the variance or exemption applies.

- (b) the Director is satisfied that issuing the variance or exemption meets the criteria established by the regulations.*
- (4) The Director must notify the employer of the decision respecting the issuance of a variance or exemption.*
- (5) A variance or exemption must*
  - (a) specify the provisions of this Act or the regulations the application of which is varied or exempted and the extent to which the application of the provisions is varied or exempted,*
  - (b) identify the employer and the employees of the employer to whom the variance or exemption applies or the employment to which the variance or exemption applies, as the case may be,*
  - (c) specify the date on which the variance or exemption commences and the date it expires,*
  - (d) include any terms or conditions that the Director considers appropriate, and*
  - (e) include any other information required by the regulations.*
- (6) If the Director grants a variance or exemption, the employer must notify the employees affected by the variance or exemption by*
  - (a) personally giving a copy of the variance or exemption to the employees,*
  - (b) posting a copy of the variance or exemption in the employees' workplace,*
  - (c) posting a copy of the variance or exemption online on a secure website to which the employees have access, or*
  - (d) providing a copy of the variance or exemption in any other manner that informs the employees of the variance or exemption.*
- (7) The employer and the employees affected by the variance or exemption must comply with the variance or exemption and any terms and conditions of the variance or exemption.*

**(19) Section 74.1 is amended**

- (a) by repealing subsection (1) and substituting the following:**

**Minister's variance or exemption**

**74.1(1)** Subject to the regulations, the Minister may, by order, on application by an employer, a group of employers or an employer association, vary or exempt the application of one or more provisions of this Act or the regulations

- (a) with respect to the employer or employers, and the employee or employees, referred to in the application, or
- (b) with respect to a type of employment carried on by the employer or employers.

- (b) in subsection (2)**

*(9) A decision by the Director respecting the amendment or revocation of a variance or exemption must be given to the employer.*

*(10) The employer must provide notice of the amendment or revocation of the variance or exemption to every employee affected by the variance or exemption by*

- (a) personally giving it to the employee,*
- (b) posting it in the employee's workplace,*
- (c) posting it online on a secure website to which the employee has access, or*
- (d) providing it in any other manner that informs the employee of the notice.*

(19) Section 74.1 presently reads:

*74.1(1) Subject to the regulations, the Minister may, by order, on application by an employer association or a group of employers, vary or exempt the application of one or more provisions of this Act or the regulations*

- (a) with respect to the employers and the employees referred to in the application, or*
- (b) with respect to a type of employment carried on by the employers.*

*(2) An order made under subsection (1) must*

- (a) specify the provisions of this Act or the regulations the application of which is varied or exempted and the extent to which the application of the provisions is varied or exempted,*

- (i) **in clause (b) by striking out** “the employer and the employees” **and substituting** “the employer or employers, and the employee or employees,”;
- (ii) **by repealing clause (c);**
- (c) **by repealing subsection (3);**
- (d) **in subsection (4) by striking out** “The employers and the employees affected by an order” **and substituting** “An employer or employee to whom an order made under subsection (1) applies”;
- (e) **in subsection (5) by striking out** “this section” **and substituting** “subsection (1)”;
- (f) **in subsection (6) by striking out** “the affected employers and employees” **and substituting** “each employer and employee to whom the order, amendment or revocation applies”.

**(20) Section 82 is amended**

- (a) **in subsection (2) by adding** “, other than a complaint referred to in subsection (2.1),” **after** “A complaint”;
- (b) **by adding the following after subsection (2):**
  - (2.1)** A complaint by an employee to whom an averaging arrangement applies that an employer failed to pay wages or overtime pay, or both, to which the employee is entitled may be made
    - (a) if the averaging arrangement ceases to apply to the employee before the end of the averaging period to which the complaint relates, at any time up to 6 months after the date on which the averaging arrangement ceases to apply to the employee, or
    - (b) if clause (a) does not apply, at any time up to 6 months after the end of the averaging period to which the complaint relates.

- (b) identify the employers and the employees to whom the order applies or the employment to which the order applies, as the case may be,*
  - (c) specify the term of the order, which must not exceed 2 years,*
  - (d) include any terms or conditions that the Minister considers appropriate, and*
  - (e) include any other information required by the regulations.*
- (3) An order made under subsection (1) shall not be renewed.*
- (4) The employers and the employees affected by an order must comply with the order and any terms and conditions of the order.*
- (5) The Minister may, at any time, amend or revoke an order made under this section.*
- (6) A copy of an order made under subsection (1) or an amendment or revocation made under subsection (5) must be given to the affected employers and employees in accordance with the regulations.*

(20) Section 82 presently reads in part:

- (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.*

**(21) Section 90(3)(b) is amended**

- (a) in subclause (i) in the portion preceding paragraph (A) by adding “if no averaging arrangement applies,” after “or both,”;**
- (b) by adding the following after subclause (i):**
  - (i.1) in the case of determining the payment of wages or overtime pay, or both, to an employee to whom an averaging arrangement applies, the period
    - (A) commencing on the beginning of the earliest averaging period to which the claim relates, and
    - (B) ending on a date before the date of the order, as determined appropriate by the officer;
- (c) in subclause (ii) by adding “or determining whether the deduction of a sum of money was authorized under section 12(2)(a.1) or (a.2),” after “or both,”.**

**(22) Section 137 is repealed and the following is substituted:**

**Group termination**

**137(1)** Subject to the regulations, an employer who intends to terminate the employment of 50 or more employees at a single location within a 4-week period must give the Minister written notice at least 4 weeks before the date on which the first termination is to take effect unless the employer is unable to do

(21) Section 90(3) presently reads in part:

(3) *In this section,*

(b) *“assessment period” means*

(i) *in the case of determining the payment of wages or overtime pay, or both, the period*

(A) *commencing 6 months before the earlier of*

(I) *the claim date, and*

(II) *the date the employee’s employment is terminated, if applicable,*

*and*

(B) *ending on a date before the date of the order, as determined appropriate by the officer;*

(ii) *in the case of determining the payment of vacation pay or general holiday pay, or both, the period*

(A) *commencing 2 years before the earlier of*

(I) *the claim date, and*

(II) *the date the employee’s employment is terminated, if applicable,*

*and*

(B) *ending on a date before the date of the order, as determined appropriate by the officer.*

(22) Section 137 presently reads:

*137(1) Subject to the regulations, if an employer intends to terminate the employment of 50 or more employees at a single location and the terminations will occur within a 4-week period, the employer must give the Minister at least the following amount of written notice before the date on which the first termination is to take effect:*

so, in which case the employer must provide written notice as soon as is reasonable and practicable in the circumstances.

**(2)** A notice under subsection (1) must include

- (a) the number of employees whose employment will be terminated, and
- (b) the effective dates of the terminations.

**(3)** This section does not apply in respect of the termination of employees who are employed on a seasonal basis or for a definite term or task.

**(23) Section 138(1) is amended**

**(a) in clause (b.3)**

- (i) in the portion preceding subclause (i) by striking out “hours of work averaging agreements” and substituting “averaging arrangements,”;**
- (ii) in subclause (iii) by striking out “agreement” and substituting “averaging arrangement”;**
- (iii) by repealing subclause (iv);**

- (a) *8 weeks, if there are 50 or more but fewer than 100 affected employees;*
  - (b) *12 weeks, if there are 100 or more but fewer than 300 affected employees;*
  - (c) *16 weeks, if there are 300 or more affected employees.*
- (2) *A notice under subsection (1) must include the following:*
- (a) *the number of employees whose employment will be terminated,*
  - (b) *the effective dates of the terminations, and*
  - (c) *any other information required by the regulations.*
- (3) *An employer giving notice under subsection (1) must immediately*
- (a) *give a copy of the notice to the bargaining agent for the affected employees, and*
  - (b) *if any of the affected employees do not have a bargaining agent, give a copy of the notice to the affected employees in accordance with the regulations.*
- (4) *A copy of a notice given by an employer under subsection (3) constitutes termination notice to an employee under section 55 only if the copy of the notice is given to the employee and the employee is identified as an affected employee.*

(23) Section 138 presently reads in part:

*138(1) The Lieutenant Governor in Council may make regulations*

- (b.3) *respecting hours of work averaging agreements including, without limitation, regulations*
  - (i) *respecting the manner in which overtime is to be calculated;*
  - (ii) *respecting work schedules;*
  - (iii) *respecting terms and conditions that must be included in an agreement;*

- (iv) **in subclause (v) by striking out “agreement” and substituting “averaging arrangement”;**
- (v) **in subclause (vi) by striking out “the circumstances under which the Director may cancel an agreement” and substituting “respecting the circumstances under which the Director may cancel an averaging arrangement”;**
- (vi) **by adding the following after subclause (vi):**
  - (vii) respecting the circumstances under which, and the process by which, an employer may cancel or amend an averaging arrangement, or cancel an averaging arrangement and require an employee or group of employees to work a different averaging arrangement, and respecting the notice required to be given to the employee or group of employees;

**(b) by adding the following after clause (d.1):**

- (d.11) respecting additional circumstances in which the employment of an employee who is temporarily laid off is terminated;

**(c) by repealing clause (d.3) and substituting the following:**

- (d.3) providing for circumstances in which a notice under section 137 is not required to be given to the Minister;

**(d) by adding the following after clause (q):**

- (q.1) respecting notices, statements and other documents referred to in this Act or the regulations, including the form and contents of a notice, statement or other document, the methods or additional methods of providing a notice, statement or other document to an employee or an employer and additional requirements respecting the provision of a notice, statement or other document;

**(24) The following is added after section 138:**

**Transitional regulation-making authority**

**139(1)** In this section,

- (iv) respecting scheduled daily and weekly hours of work;*
- (v) respecting the methods of providing copies of an agreement to, and otherwise informing employees, affected by the agreement;*
- (vi) the circumstances under which the Director may cancel an agreement and the process by which the cancellation is to take place;*
- (d.1) respecting information required to be included in a layoff notice in addition to the information specified in section 62(3)(a) to (c);*
- (d.3) respecting the circumstances under which a notice under section 137 is not required, respecting the information to be provided in a notice for the purpose of section 137(2)(c) and respecting the method of giving affected employees a copy of the notice;*
- (q) respecting, for the purposes of section 136.1, the publishing of permits, of exemptions and variances issued under section 74 and 74.1 and of the particulars of enforcement actions;*

(24) Transitional regulation-making authority.

- (a) “former provision” means a provision of the *Employment Standards Code* as the provision read immediately before being amended by the *Restoring Balance in Alberta’s Workplaces Act, 2020*;
- (b) “M.O. 18.2020” means the order of the Minister of Labour and Immigration numbered M.O. 18.2020;
- (c) “M.O. 2020-26” means the order of the Minister of Labour and Immigration numbered M.O. 2020-26.

**(2)** The Minister may make regulations respecting the transition to this Act as amended by the *Restoring Balance in Alberta’s Workplaces Act, 2020* or by the *COVID-19 Pandemic Response Statutes Amendment Act, 2020* of anything under a former provision, the *COVID-19 Pandemic Response Statutes Amendment Act, 2020*, M.O. 18.2020 or M.O. 2020-26, including regulations

- (a) respecting the transitional application of any amendment made to this Act by the *Restoring Balance in Alberta’s Workplaces Act, 2020* or the *COVID-19 Pandemic Response Statutes Amendment Act, 2020* and the interpretation of any provision amended;
- (b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the transition to this Act, including the interpretation or application of any transitional provision in the *Restoring Balance in Alberta’s Workplaces Act, 2020*.

**(3)** A regulation made under subsection (2)

- (a) may be of particular or general application and applicable at particular times or in particular circumstances, may be subject to conditions and may delegate to or impose on the Director functions, powers or duties;
- (b) may be made retroactive to the extent set out in the regulation.

**(4)** A regulation made under subsection (2) and any action or decision taken under or in accordance with the regulations made under subsection (2) apply despite anything in this Act to



the contrary, except that no regulation overrides section 2 or 2.1.

(5) This section is repealed on June 30, 2021.

## **Transitional Provisions**

### **Interpretation**

**2** In sections 5, 7 and 9, “amended Act” means the *Employment Standards Code* as amended by this Act.

### **Average daily wage**

**3** Section 1(1)(b) of the *Employment Standards Code* as it read immediately before the coming into force of this section continues to apply with respect to the calculation of general holiday pay for a general holiday that occurs before the coming into force of this section.

### **Termination of employment — payment of earnings**

**4(1)** Section 9(1) of the *Employment Standards Code* as it read immediately before the coming into force of this subsection continues to apply with respect to the payment of earnings to an employee whose employment is terminated by the employee’s employer before the coming into force of this subsection.

**(2)** Section 10 of the *Employment Standards Code* as it read immediately before the coming into force of this subsection continues to apply with respect to the payment of earnings to an employee who terminates employment before the coming into force of this subsection.

### **Deductions from earnings**

**5** Section 12(2)(a.1) and (a.2) of the amended Act apply only with respect to an overpayment of earnings, or a vacation pay advance, paid to an employee after the coming into force of this section.

### **Hours of work averaging agreements**

**6(1)** In this section, “averaging agreement” means an hours of work averaging agreement entered into under subsection 23.1(1) of the *Employment Standards Code* before the coming into force of this section that is in effect when this section comes into force.

**(2)** Section 23.1 of the *Employment Standards Code* as it read immediately before the coming into force of this section continues

## **Transitional Provisions**

**2** Interpretation.

**3** Average daily wage.

**4** Termination of employment — payment of earnings.

**5** Deductions from earnings.

**6** Hours of work averaging agreements.

to apply with respect to an averaging agreement until the averaging agreement ceases to be valid under subsection (3).

**(3)** An averaging agreement remains valid until the earliest of the following:

- (a) if the averaging agreement is not part of a collective agreement, the earlier of
  - (i) the day the averaging agreement terminates under section 23.1(3)(b) of the *Employment Standards Code* as it read immediately before the coming into force of this section, and
  - (ii) the day the averaging agreement is cancelled by a party to the averaging agreement under subsection (4) or by the Director under section 23.1(7) of the *Employment Standards Code* as it read immediately before the coming into force of this section;
- (b) if the averaging agreement is part of a collective agreement, the earlier of
  - (i) the day a subsequent collective agreement is entered into, and
  - (ii) the day the averaging agreement is cancelled by a party to the averaging agreement under subsection (4), by the Director under section 23.1(7) of the *Employment Standards Code* as it read immediately before the coming into force of this section or in accordance with a collective agreement.

**(4)** Either party to an averaging agreement may cancel the averaging agreement by giving 30 days' notice to the other party.

**(5)** If an averaging agreement is between an employer and a group of employees, the group of employees may cancel the averaging agreement under subsection (4) only if a majority of the group consents.

**(6)** The cancellation of an averaging agreement under subsection (4) is effective at the end of the 30-day notice period.



(7) Where a collective agreement provides otherwise, the cancellation of the averaging agreement must be in accordance with the collective agreement.

**Termination pay after temporary layoff**

**7** Section 63 of the amended Act applies only with respect to

- (a) an employee who, on the coming into force of that section, is on a layoff, and
- (b) an employee who is laid off on or after the coming into force of that section.

**Termination pay after temporary layoff for reasons related to COVID-19**

**8** Section 63.1 of the *Employment Standards Code* as it read immediately before the coming into force of this section continues to apply with respect to an employee who, on the coming into force of this section, is on a layoff, until

- (a) the employee is served with a recall notice under section 64 of the *Employment Standards Code*,
- (b) the employee's employment is deemed to have been terminated under section 63(1) of the *Employment Standards Code* as it read immediately before the coming into force of this section, or
- (c) the employee's employment terminates under section 63(2) of the *Employment Standards Code*.

**Minister's variance or exemption**

**9** An order made under section 74.1 of the *Employment Standards Code* at any time before the coming into force of this section or under section 74.1 of the *Employment Standards Code*, as modified by order of the Minister of Labour and Immigration numbered M.O. 18.2020, before the coming into force of this section, that is in effect on the coming into force of this section may be renewed under the amended Act despite any provision to the contrary in the order.

**7** Termination pay after temporary layoff.

**8** Termination pay after temporary layoffs for reasons related to COVID-19.

**9** Minister's variance or exemption.

**Coming into force**

**10(1)** This Part, except sections 1(14), (16)(a) and (b), (17), (18), (19), (22), (23)(b) and (c) and (24), 7, 8, 9 and 10, has effect on November 1, 2020.

**(2)** Sections 1(14), (16)(a) and (b), (17), (18), (19), (22) and (23)(b) and (c), 7 and 9 have effect on August 15, 2020.

**(3)** Section 8 comes into force on the repeal of section 63.1 of the *Employment Standards Code*.

**Part 2**

**Labour Relations Code**

**Amends RSA 2000 cL-1**

**11(1)** The *Labour Relations Code* is amended by this section.

**(2)** The preamble is amended in the 4th recital by striking out “and equitable” and substituting “, equitable and expedient”.

**(3)** Section 1(1) is amended

- (a)** in clause (g)(ii) by adding “, except in Divisions 1.1 and 8 of Part 3” after “maintenance work”;
- (b)** in clause (l) by adding “or” at the end of subclause (ii) and repealing subclause (iii);
- (c)** by repealing clause (s.1).

**10** Coming into force.

### **Labour Relations Code**

**11(1)** Amends chapter L-1 of the Revised Statutes of Alberta 2000.

(2) The preamble presently reads in part:

*WHEREAS the public interest in Alberta is served by encouraging harmonious, mutually beneficial relations between employers and employees through freely selected bargaining agents, through balanced, fair and constructive collective bargaining, and through fair and equitable resolution of matters arising with respect to terms and conditions of employment;*

(3) Section 1(1) presently reads in part:

*1(1) In this Act,*

(g) *“construction” includes construction, alteration, decoration, restoration or demolition of buildings, structures, roads, sewers, water or gas mains, pipelines, dams, tunnels, bridges, railways, canals or other works, but does not include*

*(i) supplying, shipping or otherwise transporting supplies and materials or other products to or delivery at a construction project, or*

*(ii) maintenance work;*

**(4) Section 9 is amended by repealing subsection (10) and substituting the following:**

**(10)** Notwithstanding subsection (6), the Chair or a vice-chair may sit alone to hear and decide a question

- (a) under section 12(3)(b), (d), (l), (m), (n) or (o), 14(2), 76(4) or 145(2), or
- (b) if the Chair is of the opinion that it is necessary due to an emergency.

**(5) Section 16(4)(e) is repealed and the following is substituted:**

- (e) where the Board is of the opinion that the matter is without merit, or is frivolous, trivial, vexatious, filed with improper motives or an abuse of process, reject the matter summarily.

- (l) *“employee” means a person employed to do work who is in receipt of or entitled to wages and includes a dependent contractor, but does not include*
- (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 the person’s professional capacity,*
- (iii) *a nurse practitioner who is employed in his or her professional capacity as a nurse practitioner in accordance with the Public Health Act and the regulations under that Act, or*
- (iv) *a person employed on a farming or ranching operation as determined under subsection (2) whose employment is directly related to the farming or ranching operation;*
- (s.1) *“nurse practitioner” means a registered nurse within the meaning of the Nursing Profession Act who is entered on the Nursing Profession Extended Practice Roster under that Act;*

(4) Section 9(10) presently reads:

*(10) Notwithstanding subsection (6), the Chair or a vice-chair may sit alone to hear and decide a question under section 12(3)(b), (d), (l), (m), (n) or (o), 14(2) or 76(4).*

(5) Section 16(4) presently reads in part:

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

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

**(6) Section 17(1) is amended**

**(a) by adding the following after clause (c):**

- (c.1) may, notwithstanding any other provision of this Act, if a prohibited practice contrary to Division 23 of Part 2 results in a representation vote that does not reflect the true wishes of the employees in a unit,
  - (i) order that another representation vote be conducted and do anything to ensure that the representation vote reflects the true wishes of the employees in the unit,
  - (ii) certify the trade union as the bargaining agent for the employees in the unit that the Board considers appropriate for collective bargaining only if no other remedy or remedies would be sufficient to counteract the effects of the prohibited practice, or
  - (iii) refuse to certify the trade union as the bargaining agent for the employees in the unit only if no other remedy or remedies would be sufficient to counteract the effects of the prohibited practice;

**(b) by repealing clause (d)(i).**

**(7) The following is added after section 24:**

**Financial statement**

**24.1(1)** Every trade union shall, as soon as possible after the end of the trade union's fiscal year, provide to each member in accordance with the regulations

- (a) a financial statement, meeting any requirements set out in the regulations, of the trade union's affairs for the preceding fiscal year, and
- (b) any information prescribed by the regulations.

**(2)** The financial statement must contain information in sufficient detail to accurately disclose the financial condition and operation of the trade union for its preceding fiscal year.

**(3)** If a member makes a complaint to the Board that the trade union has failed to comply with subsection (1), the Board may

(6) Section 17(1) presently reads in part:

*17(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 and of section 16(8),*

*(c) in respect of a failure to comply with section 60,*

*(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, 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;*

(7) Financial statement.

order the trade union to provide to the member a financial statement or the information prescribed by the regulations.

**(4)** If the member makes a complaint to the Board that the financial statement or the prescribed information is inadequate, the Board may order the trade union to prepare another financial statement or to provide the prescribed information in a form and containing the particulars that the Board considers appropriate.

**(5)** The Minister may make regulations

- (a) respecting requirements that financial statements must meet for the purposes of subsection (1)(a), including requirements that apply to different classes of trade unions or particular trade unions;
- (b) respecting the manner and form in which financial statements or prescribed information is to be provided to a member or members by a trade union;
- (c) prescribing information for the purposes of subsection (1)(b), including information that must be provided by different classes of trade unions or particular trade unions;
- (d) establishing different classes of trade unions for the purposes of this section.

**(8)** Section 26 is amended by striking out “dues” and substituting “union dues”.

(8) Section 26 presently reads:

*26 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 the person's defence,*
- (c) afforded a full and fair hearing, including the right to be represented by counsel, and*

**(9) The following is added after section 26:**

**Deduction election**

**26.1(1)** In setting union dues, assessments or initiation fees, a trade union must indicate

- (a) the amount or percentage of the union dues, assessments or initiation fees that relates to political activities and other causes, including
  - (i) general social causes or issues,
  - (ii) charities or non-governmental organizations,
  - (iii) organizations or groups affiliated with or supportive of a political party, and
  - (iv) any activities prescribed by the regulations,and
- (b) the amount or percentage of the union dues, assessments or initiation fees that directly relates to
  - (i) activities under this Act, including activities relating to collective bargaining and representation of members, and
  - (ii) other activities that do not fall under subclause (i) or clause (a), including any activities prescribed by the regulations.

**(2)** A trade union, before charging any union dues, assessments or initiation fees, or before changing the amount or percentage of the union dues, assessments or initiation fees to be charged, shall provide to each person required to pay the union dues, assessments or initiation fees

- (a) information respecting the amount or percentage of the union dues, assessments or initiation fees that relates to

*(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.*

(9) Deduction election.

activities referred to in subsection (1)(a) and the amount or percentage of the union dues, assessments or initiation fees that directly relates to activities referred to in subsection (1)(b),

- (b) subject to the regulations, information required or reasonably requested by the person to make an informed decision for the purpose of making an election under subsection (3) or a revocation under subsection (4), and
- (c) any other information required by the regulations.

**(3)** Effective on and after the date prescribed by the regulations, a person is not required to pay the amount or percentage of the union dues, assessments or initiation fees that relates to activities referred to in subsection (1)(a) unless the person makes an election in accordance with the regulations.

**(4)** An election under subsection (3) may be revoked in accordance with the regulations.

**(5)** Where an employee makes an election under subsection (3) or revokes an election under subsection (4), the trade union representing the employee in a unit must notify the employee's employer of the employee's election or revocation if the union dues are deducted in accordance with section 27.

**(6)** Notwithstanding section 26, no trade union shall expel or suspend a member or take disciplinary action against or impose any form of penalty on a member

- (a) because the member has not made an election under subsection (3) or has revoked an election under subsection (4), or
- (b) because the member does not pay the amount or percentage of the union dues, assessments or initiation fees that relates to activities referred to in subsection (1)(a) unless the member has made an election under subsection (3).

**(7)** No trade union shall collect union dues, assessments or initiation fees from an employee or use union dues, assessments or initiation fees collected from an employee for activities



referred to in subsection (1)(a) unless the employee has made an election under subsection (3).

**(8)** No trade union shall use union dues, assessments or initiation fees collected for activities referred to in subsection (1)(b) for any activities other than those referred to in subsection (1)(b).

**(9)** If there is a dispute

- (a) as to whether the union dues, assessments or initiation fees relate to an activity referred to in subsection (1)(a) or directly relate to an activity referred to in subsection (1)(b),
- (b) as to whether an election was made under subsection (3) or revoked under subsection (4) in accordance with the regulations,
- (c) as to whether the information required by the regulations to be provided by a trade union is sufficient to enable a person to make an informed decision for the purpose of making an election under subsection (3) or revoking an election under subsection (4), or
- (d) with respect to any other matter under this section,

a party to the dispute may apply to the Board to resolve the dispute.

**(10)** Where an application has been made under subsection (9), the Board may make any order it considers appropriate to resolve the dispute, including an order

- (a) that the trade union produce any necessary information required for the purpose of this section,
- (b) adjusting the amount or percentage of the union dues, assessments or initiation fees that relates to an activity referred to in subsection (1)(a) or directly relates to an activity referred to in subsection (1)(b),
- (c) that the collection or use of union dues, assessments or initiation fees for activities referred to in subsection (1)(a) in contravention of subsection (7) is to cease,



- (d) for restitution to employees of union dues, assessments or initiation fees that have been collected or used for activities referred to in subsection (1)(a) in contravention of subsection (7), or
- (f) suspending the trade union's ability to collect union dues from employers or employees.

**(11)** The Lieutenant Governor in Council may make regulations

- (a) prescribing activities for the purposes of subsection (1)(a)(iv) or (b)(ii);
- (b) respecting factors for the purpose of determining whether the union dues, assessments or initiation fees relate to an activity referred to in subsection (1)(a) or directly relate to an activity referred to in subsection (1)(b);
- (c) respecting the timing and frequency for the setting or charging of union dues, assessments or initiation fees by a trade union, including the making of changes to an amount or percentage referred to in subsection (1) and the information required under subsection (2);
- (d) respecting the timing, circumstances and procedure for making an election under subsection (3) or revoking an election under subsection (4);
- (e) respecting the information required to be provided by a trade union so that a person can make an informed decision for the purpose of making an election under subsection (3) or revoking an election under subsection (4), including the form and manner of providing the information;
- (f) respecting the information to be provided to employers in a notice under subsection (5), including the form and manner of providing the notice;
- (g) whether or not the term is already defined in this Act, defining any term used in
  - (i) this section,



- (ii) section 42.1 of the *Police Officers Collective Bargaining Act*,
- (iii) section 5.1(4) of the *Public Education Collective Bargaining Act*, or
- (iv) section 22.1 of the *Public Service Employee Relations Act*,

for the purpose of any of those sections and any other provision related to those sections;

- (h) prescribing the effective dates for the purposes of subsection (3) and section 27(6) of this Act, section 42.1(4) of the *Police Officers Collective Bargaining Act*, section 5.1(4) of the *Public Education Collective Bargaining Act* and sections 22(2) and 22.1(3) of the *Public Service Employee Relations Act*;
- (i) respecting any other matter the Lieutenant Governor in Council considers necessary to carry out the intent and purposes of this section.

**(12)** Subsections (1) to (11) and sections 27, 29(2), 149(1)(a)(iii) and 151(g) as amended by the *Restoring Balance in Alberta's Workplaces Act, 2020* do not apply in respect of membership fees and union dues charged by

- (a) academic staff associations,
- (b) graduate students associations, or
- (c) postdoctoral fellows associations

in their roles as bargaining agents under Division 9.1 until a Proclamation is issued fixing the date of the application of those provisions to the academic staff associations, graduate students associations or postdoctoral fellows associations.

**(13)** Proclamations may be issued at different times in respect of the application of the provisions referred to in subsection (12) to academic staff associations, graduate students associations and postdoctoral fellows associations.

**(10) Section 27 is amended**

(10) Section 27 presently reads in part:

- (a) in subsection (3)(a) by striking out “dues” and substituting “union dues”;**
- (b) in subsection (5)(a) by striking out “regular union dues” and substituting “union dues”;**
- (c) by adding the following after subsection (5):**
  - (6)** Notwithstanding subsections (1) to (5), effective on and after the date prescribed by the regulations, an employer shall not deduct the amount or percentage of union dues, assessments or initiation fees that relates to an activity referred to in section 26.1(1)(a) unless the employee has made an election under section 26.1(3).

**(11) Section 28 is amended by striking out “dues” wherever it occurs and substituting “union dues”.**

**(12) Section 29(2) is amended**

- (a) by striking out “fees, dues or other assessments” and substituting “fees, union dues or assessments described in section 26.1(1)(b)”;**
- (b) in clause (b) by striking out “dues” and substituting “union dues”.**

*(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.*

*(5) On the request of a trade union representing employees in a unit, a collective agreement must contain a provision requiring the employer to deduct from the wages of each employee in the unit affected by the collective agreement, whether or not the employee is a member of the union,*

- (a) the amount of the regular union dues, and to remit the amount to the trade union forthwith, and*
- (b) any amounts referred to in section 29(2), if applicable, and to remit the amount to a charitable organization agreed on by the employer and the trade union.*

(11) Section 28 presently reads:

*28 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.*

(12) Section 29(2) presently reads:

- (2) If the Board is satisfied that an employee because of the employee's 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,*

**(13) Section 34 is repealed and the following is substituted:**

**Inquiry into certification application**

**34(1)** Before granting an application for certification, the Board shall satisfy itself, after any investigation that 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 to it, 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 38.

**(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 33(a) or (b), of at least 40% of the employees in the unit applied for.

**(3)** Subject to subsections (4) and (5), the Board shall conduct any representation vote and complete its inquiries into and consideration of the application for certification as soon as possible.

*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.*

(13) Section 34 presently reads:

*34(1) In this section, “working day” means any day other than a Saturday, a Sunday or any other holiday as defined in the Interpretation Act.*

*(2) Before granting an application for certification, the Board shall satisfy itself, after any investigation that 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 to it, 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 38.*

*(3) The Board shall provide the employer with notice of the application for certification forthwith after receipt of the application.*

*(4) Forthwith, and no later than 5 working days after the date of the application for certification, the employer shall provide to the Board information it requires for the purpose of determining*

- (a) the employees to be included in the bargaining unit applied for or a reasonably similar unit,*
- (b) the appropriateness of the unit or a reasonably similar unit for collective bargaining, and*

**(4)** The Board shall make its final decision whether to grant the application for certification no later than 6 months after the date of the application.

**(5)** Notwithstanding subsection (4), the Chair may, in exceptional circumstances, approve an extension of the time referred to in subsection (4).

*(c) the timeliness of the application.*

*(5) 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 the application, that at the time of the application for certification the trade union had the support, in the form set out in section 33(a) or (b), of at least 40% of the employees in the unit applied for.*

*(6) The Board shall give notice of a vote within 10 working days of the date of application for certification, and the vote must commence within 3 working days of the notice.*

*(7) In cases requiring a mail-in vote, the Board shall commence the mail-in voting process no later than 14 working days after the date of the application for certification.*

*(8) In accordance with any rules made by the Board, the Board may prohibit, as of the time of giving the notice of the representation vote referred to in subsection (6), any electioneering or issuing of propaganda that may influence employees in their voting decision.*

*(9) The Board shall conduct any representation vote and shall complete its investigations and inquiries into and consideration of an application for certification as soon as possible and no later than 20 working days after receipt of the application for certification, or 25 working days in the case of a mail-in vote.*

*(10) Unless the Chair approves an extension, the Board shall make every effort to meet the timelines in this section, but a failure to meet any of the timelines does not invalidate the proceedings or prevent the completion of the certification process.*

*(11) This section applies with respect to an application for certification made on or after the day on which the Bill to enact An Act to Make Alberta Open for Business receives first reading.*

*(12) If, on or after the day on which the Bill to enact An Act to Make Alberta Open for Business receives first reading but before it receives Royal Assent,*

*(a) an application for certification is made, and*

*(b) the employees in the unit the Board considers an appropriate unit for collective bargaining have not voted, at a*

**(14) Section 37 is amended by adding the following after subsection (3):**

**(4)** Notwithstanding subsection (2), no application for certification in respect of the collective agreement referred to in subsection (2)(d) shall be made if

- (a) the employer and the bargaining agent for the employees in the unit enter into a new collective agreement at any time prior to the 2 months immediately preceding the end of the term of the collective agreement referred to in subsection (2)(d), and
- (b) the Board is satisfied that
  - (i) the employees in the unit were informed by the bargaining agent that no applications for certification shall be permitted if the employees vote to enter into the new collective agreement, and
  - (ii) a majority of the employees in the unit voted to enter into the new collective agreement.

**(5)** Notwithstanding subsection (2), no application for certification in respect of a collective agreement referred to in subsection (2)(e) shall be made if

- (a) the employer and the bargaining agent for the employees in the unit enter into a new collective agreement at any time prior to
  - (i) the 11th or 12th month of the 2nd or any subsequent year of the term of the collective agreement referred to in subsection (2)(e), or
  - (ii) the 2 months immediately preceding the end of the term of the collective agreement referred to in subsection (2)(e),

*representation vote conducted by the Board, to select the trade union as their bargaining agent,*

*and a certificate under section 39 is granted, whether before, on or after the day the Bill receives Royal Assent, the certificate is void.*

(14) Section 37 presently reads in part:

(2) *An application for certification may be made,*

(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.*

and

- (b) the Board is satisfied that
  - (i) the employees in the unit were informed by the bargaining agent that no applications for certification shall be permitted if the employees vote to enter into the new collective agreement, and
  - (ii) a majority of the employees in the unit voted to enter into the new collective agreement.

(6) The Board may, on the application of any person, employer or trade union, resolve any dispute or decide any question arising under subsection (4) or (5) and make any order it considers appropriate in the circumstances.

(7) An application under subsection (6) must be made before

- (a) the end of the period referred to in subsection (2)(d), with respect to a dispute or question arising under subsection (4), or
- (b) the end of the period referred to in subsection (2)(e)(i) or (ii) immediately following when the new collective agreement is entered into, with respect to a dispute or question arising under subsection (5).

**(15) Section 40 is amended by adding the following after subsection (4):**

(5) Subsection (3)(b) does not apply to a trade union that becomes certified for employees in a unit who are engaged in construction in respect of that unit.

(6) The Board may, on the application of a trade union that becomes a certified bargaining agent or on the application of an employer in respect of whose employees a trade union becomes a certified bargaining agent, decide any question arising under this section and may, to the extent that the Board considers necessary for the trade union to function effectively as a bargaining agent,

(15) Section 40 presently reads in part:

*(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*

- (a) vary or amend a collective agreement referred to in subsection (3)(a) with respect to the employees covered by the agreement, and
- (b) determine and declare that the collective agreement as varied or amended is in force or remains in effect and binds the parties.

**(16) Section 52 is amended by adding the following after subsection (4):**

**(4.01)** Notwithstanding subsection (3), no application for revocation shall be made in respect of a collective agreement referred to in subsection (3)(c) if

- (a) the employer and the bargaining agent for the employees in the unit enter into a new collective agreement at any time prior to the 2 months immediately preceding the end of the term of the collective agreement referred to in subsection (3)(c), and
- (b) the Board is satisfied that
  - (i) the employees in the unit were informed by the bargaining agent that no applications for revocation shall be permitted if the employees vote to enter into the new collective agreement, and
  - (ii) a majority of the employees in the unit voted to enter into the new collective agreement.

**(4.02)** Notwithstanding subsection (3), no application for revocation shall be made in respect of a collective agreement referred to in subsection (3)(d) if

- (a) the employer and the bargaining agent for the employees in the unit enter into a new collective agreement at any time prior to
  - (i) the 11th or 12th month of the 2nd or any subsequent year of the term of the collective agreement referred to in subsection (3)(d), or

*collective agreement negotiated as a result of voluntary collective bargaining.*

(16) Section 52 presently reads in part:

*(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, 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.*

- (ii) the 2 months immediately preceding the end of the term of the collective agreement referred to in subsection (3)(d),

and

- (b) the Board is satisfied that
  - (i) the employees in the unit were informed by the bargaining agent that no applications for revocation shall be permitted if the employees vote to enter into the new collective agreement, and
  - (ii) a majority of the employees in the unit voted to enter into the new collective agreement.

**(4.03)** The Board may, on the application of any person, employer or trade union, resolve any dispute or decide any question arising under subsection (4.01) or (4.02) and make any order it considers appropriate in the circumstances.

**(4.04)** An application under subsection (4.03) must be made before

- (a) the end of the period referred to in subsection (3)(c), with respect to a dispute or question arising under subsection (4.01), or
- (b) the end of the period referred to in subsection (3)(d)(i) or (ii) immediately following when the new collective agreement is entered into, with respect to a dispute or question arising under subsection (4.02).

**(17) Section 53 is repealed and the following is substituted:**

**Inquiry into revocation application**

**53(1)** Before granting an application for revocation, the Board shall satisfy itself, after any investigation that 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

(17) Section 53 presently reads:

*53(1) In this section, “working day” means any day other than a Saturday or Sunday or any other holiday as defined in the Interpretation Act.*

*(2) Before granting an application for revocation, the Board shall satisfy itself, after any investigation that 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*

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 at least 40% of the employees within the unit indicated in writing their support for the application for revocation.

**(3)** Subject to subsections (4) and (5), the Board shall conduct any representation vote and complete its inquiries into and consideration of the application for revocation of bargaining rights as soon as possible.

**(4)** The Board shall make its final decision whether to grant the application for revocation no later than 6 months after the date of the application.

**(5)** Notwithstanding subsection (4), the Chair may, in exceptional circumstances, approve an extension of the time referred to in subsection (4).

*representation vote conducted by the Board, in favour of the revocation of bargaining rights of the trade union as their bargaining agent, and*

- (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.**

*(3) The Board shall provide the employer with notice of the application for revocation forthwith after receipt of the application.*

*(4) Forthwith, and no later than 5 working days after the date of the application, the employer shall provide to the Board any information it requires for the purpose of determining*

- (a) the employees included in the bargaining unit as of the date of the application, and*
- (b) the timeliness of the application.*

*(5) Before conducting a 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 the application, that at the time of the application the applicants had the support, in the form set out in section 51(2), of at least 40% of the employees in the bargaining unit.*

*(6) Subject to subsection (7), the Board shall give notice of a vote within 10 working days of the date of application for revocation, and the vote must commence within 3 working days of the notice.*

*(7) In the case of a mail-in vote, the Board shall commence the mail-in voting process no later than 14 working days after the date of the application for revocation.*

*(8) In accordance with any rules made by the Board, the Board may prohibit, as of the time of giving the notice of vote referred to in subsection (6) any electioneering or issuing of propaganda that may influence employees in their voting decision.*

*(9) The Board shall conduct any vote and shall complete its investigations and inquiries into and consideration of an application for revocation as soon as possible and no later than 20 working*

**(18) Section 57 is amended by renumbering it as section 57(1) and adding the following after subsection (1):**

- (2) Notwithstanding anything in this Act, if
- (a) an application for certification as a bargaining agent is refused by the Board or withdrawn by the applicant or remains before the Board but without being actively pursued by the applicant,
  - (b) a complaint is made with respect to the applicant, and
  - (c) the Board satisfies itself that the applicant failed to comply with the Act in respect of the complaint,

the applicant shall not, without the consent of the Board, make the same or substantially the same application until after the expiration of 6 months from the date of the refusal or withdrawal.

(3) In this section, “complaint” means a complaint in respect of a prohibited practice relating to an application for certification, in respect of

- (a) the period beginning when a trade union begins seeking to be certified as the bargaining agent for the employees in a unit and ending when the Board makes a decision in respect of the application for certification, and
- (b) the employees in the unit for which the trade union is applying for certification.

**(19) Section 58.1(4) is amended by adding “or” at the end of clause (a), striking out “or” at the end of clause (b) and repealing clause (c).**

*days after receipt of the application, or 25 working days in the case of a mail-in vote.*

*(10) Unless the Chair approves an extension, the Board shall make every effort to meet the timelines in this section, but a failure to meet any of the timelines does not invalidate the proceedings or prevent the completion of the revocation process.*

(18) Section 57 presently reads:

*57 Notwithstanding anything in this Act, if an application for*

- (a) certification as a bargaining agent,*
- (b) revocation of the certification of a bargaining agent,*
- (c) a declaration that a bargaining agent is no longer entitled to bargain collectively,*
- (d) registration of an employers' organization, or*
- (e) cancellation of the registration certificate of an employers' organization,*

*has been refused by the Board or withdrawn by the applicant or remains before the Board but without being actively pursued 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 refusal or withdrawal.*

(19) Section 58.1 presently reads in part:

*(4) For the purposes of this Division, an employee referred to in sections 58.3(1)(b), 58.4(1)(b) and 58.5(1)(b) is an employee notwithstanding that the person*

**(20) The following is added after section 58.6:**

**Binding arbitration void or terminated**

**58.61(1)** If a collective agreement between the academic staff association and the board of a public post-secondary institution is in force on or after the day on which the Bill to enact the *Restoring Balance in Alberta's Workplaces Act, 2020* receives first reading but before it receives Royal Assent, and that collective agreement contains a provision that requires or permits a dispute arising during the negotiation of the next collective agreement to be resolved by binding arbitration, the provision is void.

**(2)** If, on or after the day on which the Bill to enact the *Restoring Balance in Alberta's Workplaces Act, 2020* receives first reading but before it receives Royal Assent, a dispute arises between the academic staff association and the board of a public post-secondary institution during the negotiation of the next collective agreement between the parties, and the dispute is referred to binding arbitration, the binding arbitration is terminated and any award made is void.

**(3)** If, before the day on which the Bill to enact the *Restoring Balance in Alberta's Workplaces Act, 2020* receives Royal Assent, a dispute arises between the academic staff association and the board of a public post-secondary institution during the negotiation of the next collective agreement between the parties, and binding arbitration or the process relating to binding arbitration has been initiated and is ongoing in respect of the dispute, the binding arbitration or binding arbitration process is terminated and any award made is void.

**(21) Section 75(3) is repealed and the following is substituted:**

- (a) *performs managerial functions,*
- (b) *is a member of the medical, dental, architectural, engineering or legal profession qualified to practise under the laws of Alberta and is employed in the person's professional capacity, or*
- (c) *is a nurse practitioner employed in the professional capacity as a nurse practitioner in accordance with the Public Health Act and the regulations under that Act.*

(20) Binding arbitration void or terminated.

(21) Section 75(3) presently reads:

**(3)** No strike or lockout vote shall be conducted under supervision until

- (a) a mediator has been appointed under section 65, or
- (b) a mediator has been appointed under section 92.2(6)(c) to provide enhanced mediation,

and the cooling-off period referred to in section 65(7) has expired.

**(22)** Section 78(1)(b) and (2)(b) are amended by adding “or 92.2(6)(c)” after “under section 65”.

**(23)** Section 84 is amended

**(a)** in subsection (1) by adding “and section 84.1” after “Subject to subsection (5)”;

**(b)** by adding the following after subsection (3):

**(3.1)** Obstructing or impeding a person who wishes to cross a picket line from crossing the picket line is a wrongful act.

**(c)** by adding the following after subsection (6):

**(7)** Picketing in connection with a labour dispute or difference shall only be conducted in accordance with this section and section 84.1.

*(3) No strike or lockout vote shall be conducted under supervision until a mediator has been appointed under section 65 and the cooling-off period referred to in subsection (7) of that section has expired.*

(22) Section 78(1) and (2) presently read in part:

*78(1) A bargaining agent shall not cause a strike unless it*

*(b) forthwith after service of the notice referred to in clause (a), notifies the mediator appointed under section 65, giving the mediator 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*

*(b) forthwith after service of the notice referred to in clause (a), notifies the mediator appointed under section 65, giving the mediator notice of the date, time and initial location at which the lockout will commence.*

(23) Section 84 presently reads in part:

*84(1) Subject to subsection (5), during a strike or lockout that is permitted under this Act anyone may, at the striking or locked-out employees' place of employment, in connection with any labour relations dispute or difference, 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.*

**(24) The following is added after section 84:**

**Secondary picketing**

**84.1(1)** A person or trade union shall not picket at the premises referred to in section 84(2) unless permitted to do so pursuant to an order of the Board made under subsection (2) and subject to any determinations or declarations made by the Board in the order.

**(2)** On the application of a person or trade union wishing to picket at any premises referred to in section 84(2), the Board may

- (a) permit picketing at the premises,
- (b) determine the location or locations on the premises at which the picketing may be conducted, and
- (c) make any other declarations with respect to picketing at the premises that the Board considers advisable.

**(25) Section 86 is amended by striking out “section 84 or 85” wherever it occurs and substituting “section 84, 84.1 or 85”.**

*(4) For greater certainty, persuasion and attempts to persuade authorized by subsection (1) or under a determination or order of the Board under subsection (5) are not themselves wrongful acts.*

*(6) When the Board makes a determination or order under subsection (5) it shall consider the following:*

*(a) the directness of the interest of persons and trade unions picketing in respect of a labour dispute or difference;*

*(b) violence or the likelihood of violence in connection with picketing in respect of a labour dispute or difference;*

*(c) the desirability of restraining picketing in respect of a labour dispute or difference so that the conflict, dispute or difference will not escalate;*

*(d) the right to peaceful free expression of opinion.*

(24) Secondary picketing.

(25) Section 86 presently reads:

*86 Where the Board is satisfied that*

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

**Effect of directive or order**

**88(1)** A directive or interim directive to cease a strike or lockout that is not permitted under this Act, an order made under section 84 or 84.1 or a directive or interim directive made under section 86 or 87 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, interim directive or order and to any future strike or lockout that occurs for the same or substantially the same reason.

**(2)** Notwithstanding section 18(6),

- (a) on the request of a party, the Board shall forthwith file a copy of the directive, interim directive or order referred to in subsection (1) with the Court, and

- (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 84 or 85,*

*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 84 or 85.*

(26) Section 88 presently reads:

*88(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 86 or 87, 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 18(6), the Board may file a copy of a directive or interim directive referred to in subsection (1) with the Court and, on filing, the directive is enforceable as a judgment or order of the Court.*

*(3) Service of a directive or interim directive under section 86 or 87 in accordance with this Act or any rules or directives of the Board, in addition to being service of the directive or interim directive, is deemed to be service of the judgment or order of the Court under*

- (b) in the absence of such a request, the Board may file a copy of the directive, interim directive or order referred to in subsection (1) with the Court,

and, on filing, the directive, interim directive or order is enforceable as a judgment or order of the Court.

(3) Service of a directive, interim directive or order made under section 84, 84.1, 86 or 87 in accordance with this Act or any rules or directives of the Board, in addition to being service of the directive, interim directive or order, is deemed to be service of the judgment or order of the Court under subsection (2) when that directive, interim directive or order is filed with the Court.

**(27) Section 92.3 is repealed and the following is substituted:**

**Declaration**

**92.3** If the efforts by the Board to resolve the dispute under section 92.2 are unsuccessful, the Board may declare that the dispute be resolved by arbitration in accordance with section 92.4 if

- (a) the Board is satisfied that arbitration is necessary,
- (b) the Board is satisfied that the employer or trade union has failed to comply with the Act through
  - (i) a refusal to meet to bargain collectively,
  - (ii) a refusal to recognize the authority of the other party to bargain collectively, or
  - (iii) a failure to make a reasonable effort to conclude a collective agreement,

and

- (c) no other remedy or remedies would be sufficient to counteract the effects of the failure to comply with the Act.

**(28) The following is added after section 113:**

*subsection (2) of this section when that directive or interim directive is filed with the Court.*

(27) Section 92.3 presently reads:

*92.3(1) If the efforts by the Board to resolve the dispute under section 92.2 are unsuccessful and the Board is satisfied that arbitration is otherwise appropriate, the Board may declare that the dispute be resolved by arbitration in accordance with section 92.4.*

*(2) In making its decision under subsection (1), the Board shall consider whether*

- (a) any extreme bargaining positions have been taken by one or both parties,*
- (b) any unfair labour practices have occurred, or*
- (c) the employer failed to recognize and negotiate with the bargaining agent,*

*and may take into account any other factors that it considers relevant to the dispute.*

(28) Division 19; suspension of dues check-off; payment of union dues during illegal lockout.

## **Division 19 Measures During Illegal Strike or Illegal Lockout**

### **Suspension of dues check-off**

**114(1)** If a strike that is prohibited by Division 15.1, 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 one 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 after service of the directive, but not afterwards, for a determination as to whether 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 the employer shall then suspend the deduction and



remittance of union dues, assessments and other fees in accordance with the directive.

**(8)** Notwithstanding any collective agreement or this Act, 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 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**

**115(1)** If a lockout that is prohibited by Division 15.1, 16 or 18 of this Part commences, the Board may direct the employer who locks out the employer's 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 one to 6 months from the date on which the lockout commences.

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

**(4)** If the employer does not make an application under subsection (3), the employer 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.

**(29) Section 142 is amended**

**(a) in subsection (1) by striking out** “Subject to subsections (2), (3) and (4)” **and substituting** “Subject to subsections (2) and (4)”;

**(b) by repealing subsections (3) and (5).**

**(30) Section 143(1) is amended by striking out** “and within the principles of Canadian labour arbitration”.

(29) Section 142 presently reads:

*142(1) Subject to subsections (2), (3) and (4), no arbitrator, arbitration board or other body shall by its award alter, amend or change the terms of a collective agreement.*

*(2) Where 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 of the arbitration, the arbitrator, arbitration board or other body may substitute for the discharge or discipline some other penalty that, in its opinion, is just and reasonable in the circumstances.*

*(3) Where an arbitrator, arbitration board or other body determines that there are reasonable grounds for extending the time for taking any step in a grievance process or arbitration procedure set out in a collective agreement, the arbitrator, arbitration board or other body may, notwithstanding the terms of the collective agreement, grant an extension, even after the expiration of the time, if, in its opinion, the other party would not be unduly prejudiced by the extension.*

*(4) An arbitrator, arbitration board or other body may interpret, apply and give relief in accordance with an enactment relating to employment matters notwithstanding any conflict between the enactment and the collective agreement.*

*(5) Subsection (3) only applies to arbitrators, arbitration boards or other bodies appointed on or after the day this section comes into force.*

(30) Section 143(1) presently reads:

*143(1) An arbitrator, arbitration board or other body has the authority necessary to provide a final and binding settlement of a dispute having regard to the substance of the matters in dispute and the merit of the positions of the parties, in a manner consistent with*

**(31) Section 145(3) is repealed and the following is substituted:**

- (3) On an application under subsection (2), the Board may
- (a) set aside the decision or award,
  - (b) remit the matters referred to it back to the arbitrator, arbitration board or other body, or to another arbitrator, arbitration board or other body, or
  - (c) stay the proceedings before the arbitrator, arbitration board or other body.

**(3.1)** Notwithstanding section 12(2)(i), the Board may award any costs it considers appropriate in the circumstances with respect to an application under subsection (2).

**(32) Section 149 is amended**

**(a) in subsection (1)**

- (i) in clause (a)(iii) by striking out** “periodic dues, assessments and initiation fees” **and substituting** “union dues, assessments and initiation fees referred to in section 26.1(1)(b)”;

**(ii) by adding the following after clause (d):**

- (d.1) suspend, discharge or impose any financial or other penalty on an employee, or take any other disciplinary action against an employee, because the employee has made or refrained from making an election under section 26.1(3) or revoked or refrained from revoking an election under section 26.1(4);
- (d.2) deduct union dues, assessments or initiation fees related to activities referred to in section 26.1(1)(a) without the required authorization;

*the provisions of this Act and within the principles of Canadian labour arbitration.*

(31) Section 145(3) presently reads:

*(3) On an application under subsection (2), the Board may set aside the decision or award, remit the matters referred to it back to the arbitrator, arbitration board or other body, or to another arbitrator, arbitration board or other body, or stay the proceedings before the arbitrator, arbitration board or other body on the grounds that*

- (a) a party to the arbitration was denied a fair hearing, or*
- (b) the award is unreasonable because of a lack of intelligibility or transparency, or because it falls outside the range of possible acceptable outcomes that are defensible in respect of the facts and law.*

(32) Section 149 presently reads in part:

*149(1) 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 the person's selection of a trade union to be the bargaining agent on the person's 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,*

(d.3) seek through coercion, intimidation, threats, promises or undue influence to compel an employee to make or refrain from making an election under section 26.1(3) or to revoke or refrain from revoking an election under section 26.1(4);

**(b) in subsection (2) by striking out** “subsection (1)(a), (c), (d), (f) or (g)” **and substituting** “subsection (1)(a), (c) in respect of dismissals only, or (d) or (f) in respect of discharges only”.

- (v) *has made or is about to make a disclosure that the person 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 the employee 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 the employee's 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*

**(33) Section 151 is amended**

**(a) by renumbering it as section 151(1);**

**(b) in subsection (1)**

**(i) in clause (f) by adding** “including activity relating to making or revoking an election under section 26.1(3) or (4)” **after** “in or for a trade union”;

**(ii) in clause (g) by striking out** “periodic dues, assessments and initiation fees” **and substituting** “union dues, assessments and initiation fees referred to in section 26.1(1)(b)”;

**(iii) in clause (i)(ii) by adding** “if that employment does not threaten the trade union’s legitimate interests or” **after** “for engaging in employment with an employer who is not a party to a collective agreement with the trade union”;

**(c) by adding the following after subsection (1):**

**(2)** For the purposes of subsection (1)(i)(ii), the Board shall consider the following factors in determining whether any proposed employment is reasonable alternate employment:

- (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 the person 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.*

*(2) The burden of proof that any employer or employers' organization or person acting on behalf of an employer or employers' organization did not act contrary to subsection (1)(a), (c), (d), (f) or (g) lies on the employer or employers' organization or person acting on behalf of the employer or employers' organization.*

(33) Section 151 presently reads:

*151 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) *subject to section 151.1, 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;*

- (a) whether the proposed employment is comparable to the current or former employment in respect of the primary functions and responsibilities of the position, the duration of the position, and the wages and benefits offered;
- (b) that a bargaining unit position is not reasonable alternate employment in respect of a managerial position;
- (c) that reasonable alternate employment must be in the same industry as the current or former employment;
- (d) any other factors the Board considers relevant.

**(3)** The burden of proof that any trade union or person acting on behalf of a trade union did not act contrary to subsection (1)(f) lies on the trade union or person acting on behalf of the 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 the employee's 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 the employee 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 the person having refused to perform an act that is contrary to this Act;*
- (h.1) *repealed 2017 c9 s140;*
- (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 the person's 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.*

**(34) Section 153 is amended by adding the following after subsection (3):**

**(3.1)** When a complaint is made in respect of an alleged denial of fair representation by a trade union under subsection (1), the Board may reject the complaint summarily where the complainant has refused to accept a settlement that is fair and reasonable.

**(35) Section 163 is amended**

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

**(1.1)** Notwithstanding subsection (1),

- (a) Divisions 1.1, 1.2 and 8 apply in respect of all trade unions subject to this Part;
- (b) Divisions 2 to 7.1 and 9 apply only in respect of trade unions subject to registration.

**(b) in subsection (2) by adding the following after clause (d):**

- (e) “trade union subject to registration” means a trade union to which Divisions 2 to 7.1 and 9 of this Part apply.

**(36) The following is added after section 163:**

(34) Section 153 presently reads in part:

*153(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 the employee's or former employee's rights under the collective agreement.*

*(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.*

(35) Section 163 presently reads in part:

*163(1) This Part applies to employers and employees engaged in the construction industry in respect of work in that industry.*

*(2) In this Part,*

- (d) "trade jurisdiction" means a trade jurisdiction established by the Board.*

(36) Division 1.1; all-employee and trade-specific bargaining units; application for consolidation of bargaining rights;

**Division 1.1  
Construction and  
Maintenance Work  
Bargaining Rights**

**All-employee and trade-specific bargaining units**

**163.1(1)** Except as modified by this section, Division 5 of Part 2 applies to applications for certification under this section.

**(2)** Subject to subsection (4), a trade union may apply to the Board to be certified as the bargaining agent for

(a) an all-employee bargaining unit with respect to employees who are employed by the employer

(i) in a sector or in maintenance work, and

(ii) in more than one trade jurisdiction,

or

(b) a trade-specific bargaining unit with respect to employees who are employed by the employer

(i) in a sector or in maintenance work, and

(ii) in a trade jurisdiction.

**(3)** An all-employee bargaining unit or a trade-specific bargaining unit shall be considered a unit appropriate for collective bargaining in a sector or in maintenance work.

**(4)** A trade union subject to registration with respect to a sector shall not bring an application for certification under subsection (2)(a) with respect to that sector or maintenance work.

**(5)** The Board may, where it considers it appropriate to do so, exclude a trade jurisdiction from an all-employee bargaining unit if the employees employed by the employer in the trade jurisdiction in a sector or in maintenance work are represented by a bargaining agent other than the trade union applying for certification.

**(6)** The Board may refuse an application for certification of an all-employee bargaining unit under subsection (2)(a) if the Board determines, based on what is reasonably known or anticipated at

consolidated certificate; unrepresented employees; application for certification by trade union subject to registration. Division 1.2 Construction Common Employer Declarations.

the time of the application, that there will be a substantial and imminent change in the composition of the bargaining unit applied for such that the composition of the bargaining unit at the time of the application is unrepresentative of what its composition will be after the change occurs.

(7) For greater certainty, subsection (6) does not apply in respect of trade-specific bargaining units.

#### **Application for consolidation of bargaining rights**

**163.2(1)** In this section, “consolidating bargaining agent” means a bargaining agent making an application for consolidation under this section or a bargaining agent in respect of which an employer is making an application for consolidation under this section.

(2) Subject to subsections (3) and (4), an employer or a bargaining agent may apply to the Board for the consolidation of existing trade-specific bargaining rights in a sector or in maintenance work into an all-employee bargaining unit.

(3) An application for consolidation must not be made unless a consolidating bargaining agent represents employees in at least 3 trade jurisdictions employed by the employer in a sector or in maintenance work.

(4) An application for consolidation must not be made until after the expiry dates set out in the first collective agreement or collective agreements entered into between the consolidating bargaining agent and employer in respect of at least 3 of the trade jurisdictions that are the subject of the application for consolidation.

(5) The Board shall, where it is appropriate to do so, exclude from the application for consolidation and the consolidated certificate any trade-specific bargaining units that are represented by a bargaining agent other than the consolidating bargaining agent.

#### **Consolidated certificate**

**163.3(1)** If the Board is satisfied that the application for consolidation should be granted, the Board shall issue a consolidated certificate for an all-employee bargaining unit

- (a) naming the consolidating bargaining agent as the certified bargaining agent of the consolidated unit,



- (b) naming the employer in respect of which the bargaining agent is certified, and
- (c) setting out any exclusions from the all-employee bargaining unit.

(2) If one or more collective agreements are in force with respect to a consolidated unit when the consolidated certificate is issued, the Board may

- (a) terminate any of the collective agreements,
- (b) amend any of the collective agreements with respect to the employees subject to the collective agreements, or
- (c) declare that one or more collective agreements are in force or continue in force.

#### **Unrepresented employees**

**163.4(1)** If, at the time of a consolidation application, there are employees in a trade jurisdiction not represented by a trade union, the Board shall conduct a representation vote to determine whether those employees wish to be represented by the consolidating bargaining agent.

(2) If the employees in a trade jurisdiction referred to in subsection (1) vote to select the consolidating bargaining agent as their bargaining agent, that trade jurisdiction must be included in the consolidated certificate.

(3) If the employees in a trade jurisdiction referred to in subsection (1) vote against selecting the consolidating bargaining agent as their bargaining agent, that trade jurisdiction must be excluded from the consolidated certificate.

#### **Application for certification by trade union subject to registration**

**163.5** Subject to Division 5 of Part 2, where an all-employee certificate or a consolidated certificate has been granted with respect to an employer, a trade union subject to registration shall not make an application to be certified as the bargaining agent for a trade-specific bargaining unit of the employer in respect of a trade jurisdiction that is included in an all-employee bargaining unit or trade-specific bargaining unit.



## **Division 1.2 Construction Common Employer Declarations**

### **Construction common employer declarations**

**163.6(1)** 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 one corporation, partnership, person or association of persons, the Board may declare the corporations, partnerships, persons or associations of persons to be one employer for the purposes of this Act.

**(2)** If, in an application under subsection (1), the Board considers that activities or businesses, undertakings or other activities are carried on by or through more than one corporation, partnership, person or association of persons in order to avoid a collective bargaining relationship with a trade union in a part of the construction industry, the Board shall make a declaration under subsection (1) with respect to those corporations, partnerships, persons or associations of persons and the Board may grant any relief, by way of declaration or otherwise, that it considers appropriate, effective as of the date on which the application was made or any subsequent date.

**(3)** Notwithstanding subsection (2), if a trade union makes an application under subsection (1), the Board shall not make a declaration under subsection (1) in respect of a corporation, partnership, person or association of persons that does not employ employees who perform work of the kind performed by members of the applicant trade union.

**(37) Section 192 is repealed.**

(37) Section 192 presently reads:

*192(1) 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 one corporation, partnership, person or association of persons, the Board may declare the corporations, partnerships, persons or associations of persons to be one employer for the purposes of this Act.*

**(38) The following is added after section 193:**

**Division 7.1  
Project Agreements**

**Definition**

**193.1** In this Division,

- (a) “Building Trades of Alberta” means the council of construction unions that has been duly chartered by North America’s Building Trades Unions and is known as the Building Trades of Alberta;
- (b) “project agreement” means a collective agreement entered into under section 193.3 in respect of a construction project.

**Negotiation of terms**

**193.2(1)** The Building Trades of Alberta is deemed to be a bargaining agent for the purposes of this Division.

**(2)** The authority of the Building Trades of Alberta as a bargaining agent is limited to the extent provided for in this Division.

*(2) If, in an application under subsection (1), the Board considers that activities or businesses, undertakings or other activities are carried on by or through more than one corporation, partnership, person or association of persons in order to avoid a collective bargaining relationship with a trade union in a part of the construction industry, the Board shall make a declaration under subsection (1) with respect to those corporations, partnerships, persons or associations of persons and the Board may grant any relief, by way of declaration or otherwise, that it considers appropriate, effective as of the date on which the application was made or any subsequent date.*

*(3) Notwithstanding subsection (2), if a trade union makes an application under subsection (1), the Board shall not make a declaration under subsection (1) in respect of a corporation, partnership, person or association of persons that does not employ employees who perform work of the kind performed by members of the applicant trade union.*

(38) Division 7.1 Project Agreements.

(3) The Building Trades of Alberta may negotiate with an employer or employers on a voluntary basis the terms to be included in a project agreement.

(4) The negotiations under subsection (3) are not subject to any registration certificates or any collective agreements negotiated under registration certificates.

(5) Upon completion of the negotiations under subsection (3), the Building Trades of Alberta and the employer or employers shall sign the terms agreed to under the negotiations.

**Project agreement**

**193.3(1)** When 2 or more trade unions subject to registration agree in writing to adopt the terms negotiated under section 193.2 as a collective agreement, the parties are considered to have entered into a project agreement whose terms are those terms negotiated under section 193.2.

(2) A project agreement is binding on the trade unions that entered into the agreement, the employees on whose behalf the trade unions act and the employer or employers who agreed to the terms under section 193.2.

(3) A project agreement shall be signed by the trade unions that entered into the agreement and the employer or employers who agreed to the terms under section 193.2.

(4) Any employer in respect of the project that has a bargaining relationship with a trade union that has entered into a project agreement may agree in writing to be bound by the project agreement, in which case the employer shall sign the project agreement.

(5) A project agreement binds the parties only for the duration set out in the project agreement.

(6) A project agreement is not subject to any registration certificate.

(7) The trade unions, employees and employers that are bound by a project agreement are, to the extent that they are engaged in the project that is the subject of that project agreement, excluded from:



- (a) any registration certificate and the effects of any registration certificate,
- (b) any other collective agreement,
- (c) if applicable, any application for a registration certificate, any registration certificate issued as a result of the application and any collective agreement entered into afterwards between a registered employers' organization and a trade union, that, but for this section, would have applied to them in respect of the project that is the subject of the project agreement,
- (d) if applicable, any application for certification or revocation that, but for this section, would have applied to them in respect of the project that is the subject of the project agreement, and
- (e) if applicable, any application under section 46 or 163.6 that, but for this section, would have applied to them in respect of the project that is the subject of the project agreement.

**(8)** Sections 59 to 83 and 130 do not apply in respect of a project agreement.

**Strike or lockout**

**193.4** Any strike or lockout with respect to a project agreement is unlawful.

**Revision or renewal**

**193.5(1)** No trade union shall revise or renew a project agreement.

**(2)** Only the Building Trades of Alberta and the employer or employers that agreed to the terms under section 193.2 may revise or renew those terms.

**(39) Division 8 of Part 3 is repealed and the following is substituted:**

(39) Division 8 of Part 3 presently reads:

*Division 8  
Collective Agreements Relating to  
Major Construction Projects*

*194(1) In this Division,*

**Division 8  
Collective Agreements  
Relating to Major  
Construction Projects**

**Interpretation**

**194(1)** In this Division,

- (a) “plant” means a plant or other works or undertakings for the production or manufacture of petroleum products, natural gas products, pulp and paper products or any other products specified in the regulations;
- (b) “principal contractor” means the person, corporation, partnership or group of persons primarily responsible for the construction of a plant or the alteration of or addition to an existing plant;
- (c) “project” means the construction of a plant or the alteration of or addition to an existing plant, and includes providing camp or catering facilities;
- (d) “project trade union” means a trade union that is a bargaining agent of employees employed or who may be employed in the designated project.

**(2)** For greater certainty, a principal contractor may be the owner of a plant or a person contracting with the owner for the construction of a plant or the alteration of or addition to an existing plant.

**(3)** The Lieutenant Governor in Council may make regulations specifying products for the purposes of subsection (1)(a).

**Application for authorization**

**195(1)** A person who wishes to engage in a project may apply to the Minister for a designation of the project as a project to which this Division applies, which authorizes a principal contractor to bargain collectively with respect to the project.

**(2)** An application under subsection (1) shall be in the form and contain the information prescribed by the Minister.

**(3)** The Minister shall consult with the applicant and persons affected by the application before making a decision.

- (a) “plant” means a plant or other works or undertakings for the production or manufacture of petroleum products, natural gas products, pulp and paper products or any other products specified in the regulations;
- (b) “principal contractor” means the person, corporation, partnership or group of persons primarily responsible for the construction of a plant or the alteration of or addition to an existing plant, and may include an owner of the plant or a person contracting with the owner for the construction, alteration or addition;
- (c) “project” means the construction of a plant or the alteration of or addition to an existing plant, and includes providing camp or catering facilities in connection with that construction, alteration or addition.

(2) The Lieutenant Governor in Council may make regulations specifying products for the purposes of subsection (1)(a).

195(1) A person who wishes to engage in a major project may apply to the Minister for an authorization allowing a principal contractor to bargain collectively with respect to the project.

(2) An application under subsection (1) shall be in the form and contain the information prescribed by the Minister.

(3) If the Minister considers that the project is significant to the economy of Alberta, the Minister shall forward the application to the Lieutenant Governor in Council.

196(1) If the Lieutenant Governor in Council is satisfied that it is in the public interest that a person or a designated principal contractor be authorized to bargain collectively as a principal contractor of a project in respect of which the Minister has received an application under section 195, the Lieutenant Governor in Council may by regulation designate the project as a project to which this Division applies, and authorize the principal contractor to bargain collectively in respect of that project.

(2) In a regulation made under subsection (1) or in any subsequent regulation, the Lieutenant Governor in Council may also

- (a) designate the principal contractor,

(4) The Minister shall make a decision on the application no later than 120 days after the date of the application unless the Minister extends, in writing, the time for making a decision or the Minister and the applicant agree to extend the time for making a decision.

#### **Designation of project**

**196(1)** If the Minister is satisfied that

- (a) a project in respect of which the Minister has received an application under section 195 is significant to the economy of Alberta, and
- (b) it is in the public interest that a person or a principal contractor be authorized to bargain collectively as a principal contractor of the project,

the Minister may by order designate the project as a project to which this Division applies, which authorizes the principal contractor to bargain collectively with any project trade union.

(2) In an order made under subsection (1) or in any subsequent order, the Minister may also

- (a) designate the principal contractor,
- (b) prescribe the scope of construction to which a collective agreement under this Division shall apply, and
- (c) provide for the method by which it shall be determined when the completion of the project occurs for the purposes of section 201.1.

(3) A designation granted with respect to a principal contractor may, with the consent of the Minister in writing, be delegated, in whole or in part, to another principal contractor or another owner or from one principal contractor of the project to another principal contractor of the project.

#### **Collective bargaining between principal contractor and project trade union**

**197(1)** Subject to the order made under section 196, a principal contractor designated under section 196 may engage in collective bargaining with any project trade union.

- (b) prescribe the scope of construction to which a collective agreement under this Division shall apply, and*
- (c) provide for the method by which it shall be determined when the completion of the project occurs for the purposes of section 199.*

*(3) A designation granted in favour of an owner of a project or a principal contractor may, with the consent of the Minister, be delegated to another principal contractor or another owner or from one principal contractor of the project to another principal contractor of the project.*

*197(1) Subject to subsection (2) and the regulations under section 196, a principal contractor designated under section 196 may engage in voluntary collective bargaining on the principal contractor's own behalf and on behalf of any other employer engaged in the project with any trade union that is a bargaining agent of the employees of the principal contractor or of the employees of those employers referred to in this subsection.*

*(2) A principal contractor and a trade union referred to in subsection (1) may bargain collectively with respect to any terms or conditions of employment of the employees referred to in that subsection.*

*(3) When a collective agreement is in effect between*

- (a) the principal contractor in the principal contractor's capacity as an employer or any other employer referred to in subsection (1), and*
- (b) a trade union,*

*the collective agreement and the rights of the parties to that collective agreement are unaffected by any collective bargaining between a principal contractor and a trade union pursuant to this section.*

*(4) This section applies notwithstanding that*

- (a) a registration certificate is in effect with respect to*
  - (i) the principal contractor in the principal contractor's capacity as an employer or any other employer on whose behalf a principal contractor is authorized to bargain collectively under this section, and*

(2) When a principal contractor referred to in subsection (1) wishes to commence collective bargaining, the principal contractor may serve a notice to commence collective bargaining on any project trade union.

(3) When a notice to commence collective bargaining has been served under subsection (2), the principal contractor and the project trade union shall meet and commence to bargain collectively in good faith and shall make every reasonable effort to enter into a collective agreement.

(4) No person, principal contractor, employer or project trade union shall strike or lock out or cause a strike or lockout with respect to the negotiation of a collective agreement under this Division.

(5) Sections 59 to 83 and 163 to 193 do not apply to a principal contractor or a project trade union in respect of collective bargaining under this Division.

#### **Compulsory arbitration**

**198(1)** If a dispute relating to collective bargaining under this Division cannot be resolved, a party may require that the matters in dispute be referred to a 3-member compulsory arbitration board under this Division by serving notice on the other party.

(2) Notwithstanding subsection (1), after notice has been served under subsection (1), the parties may agree that the dispute be referred to a one-member compulsory arbitration board instead of a 3-member compulsory arbitration board.

(3) The arbitration board shall consider the position of the parties on each matter in dispute and make an award dealing with each matter within 20 working days after the arbitration board has been established or any longer time that may be agreed to by the parties or fixed by the Minister.

(4) The award of a majority of the members of the 3-member arbitration board shall be the award of the 3-member arbitration board.

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

(ii) a trade union,

or

(b) a collective agreement is in force between

(i) the principal contractor in the principal contractor's capacity as an employer or any other employer on whose behalf a principal contractor is authorized to bargain collectively under this section or any employers' organization, and

(ii) a trade union.

(5) Sections 59 to 83 and 163 to 193 do not apply to a principal contractor and a trade union in respect of collective bargaining under this section.

(6) No principal contractor, no employer for whom a principal contractor is authorized to bargain and no trade union or persons shall strike or lock out or cause a strike or lockout with respect to the negotiation of a collective agreement under this Division.

198 A collective agreement entered into between a principal contractor and a trade union under this Division is binding on

(a) the principal contractor in the principal contractor's capacity as the principal contractor,

(b) the principal contractor in the principal contractor's capacity as an employer to the extent that the principal contractor is an employer engaged in the designated project,

(c) the employers on whose behalf the principal contractor bargained collectively to the extent that they are employers engaged in the designated project,

(d) any other employer who becomes engaged in the designated project after the principal contractor and the trade union entered into a collective agreement, to the extent that the employer is an employer engaged in the designated project,

(e) the trade union, to the extent that the trade union is the bargaining agent for employees of the employers referred to in this section and to the extent that those employees are employed in the designated project, and

#### **Appointment of 3-member arbitration board**

**199(1)** When a notice is served under section 198(1) requiring a dispute to be resolved by 3-member arbitration board, each party shall nominate a member of the arbitration board within 7 working days and provide to the other party the name and contact information of its member.

**(2)** If a party fails to nominate a member within 7 working days, the other party may request the Minister to nominate a member for that party.

**(3)** The members shall attempt to select an individual to act as chair and, if they select an individual, that individual shall be appointed as chair.

**(4)** If the members fail to select an individual to act as chair, either party may request the Minister to appoint a chair.

#### **Appointment of one-member arbitration board**

**200(1)** When the parties agree that a dispute is to be resolved by a one-member arbitration board, the parties shall attempt to agree on an individual to act as member of the arbitration board within 7 working days.

**(2)** If the parties fail to agree on a member within 7 working days, either party may request the Minister to appoint the member.

#### **Collective agreement**

**201(1)** More than one collective agreement may be entered into and be in effect under this Division in respect of a designated project.

**(2)** A collective agreement entered into under this Division and in effect with respect to a designated project may be revised or renewed and the negotiation of the revision or renewal of the collective agreement is subject to this Division.

**(3)** If a dispute with respect to the revision or renewal of a collective agreement cannot be resolved, sections 198 to 200 apply.

**(4)** If a principal contractor or a project trade union is a party to a collective agreement to which this Division does not apply, the rights of the parties under that collective agreement are unaffected by any collective agreement entered into by any of the parties

*(f) the employees on whose behalf the trade union bargained collectively and who become part of the bargaining unit of the trade union, to the extent that the employees are employed in the designated project by the employers referred to in this section.*

*199(1) If the terms and conditions of a collective agreement entered into between a principal contractor and a trade union under this Division have been settled, the principal contractor and the trade union shall sign the collective agreement.*

*(2) If a collective agreement is entered into between a principal contractor and a trade union under this Division,*

*(a) no employer on whose behalf the principal contractor bargained collectively,*

*(b) no employer who becomes bound by the collective agreement after it is entered into, and*

*(c) no employee on whose behalf a trade union bargained collectively or who becomes part of the bargaining unit of the trade union,*

*is required to sign the collective agreement.*

*(3) A collective agreement entered into between a principal contractor and a trade union under this Division is deemed*

*(a) to be a collective agreement for the purposes of this Act, and*

*(b) to continue in force until its expiry, the completion of the designated project or the repeal of the regulation under section 196, whichever first occurs.*

*(4) Section 130 does not apply to a collective agreement entered into between a principal contractor and a trade union under this Division.*

*(5) Notwithstanding subsection (3)(b), if the project occurs in phases, a collective agreement under this Division is deemed to continue in force with respect to any phase of construction until the completion of that phase of construction or the repeal of the regulation under section 196(1), whichever first occurs.*

*200(1) If a collective agreement is entered into between a principal contractor and a trade union under this Division,*

under this Division, except to the extent that the collective agreement to which this Division does not apply relates to the designated project.

(5) Section 130 does not apply to a collective agreement entered into between a principal contractor and a project trade union under this Division.

**Signatures on and duration of collective agreement**

**201.1(1)** If the terms of a collective agreement entered into between a principal contractor and a project trade union under this Division have been settled, the principal contractor and the project trade union shall sign the collective agreement.

(2) If a collective agreement is entered into between a principal contractor and a project trade union under this Division, the following parties are not required to sign the collective agreement:

- (a) an employer on whose behalf the principal contractor bargained collectively;
- (b) an employer who becomes bound by the collective agreement after it is entered into;
- (c) an employee on whose behalf a project trade union bargained collectively or who becomes part of the bargaining unit of the project trade union.

(3) A collective agreement entered into between a principal contractor and a project trade union under this Division is deemed

- (a) to be a collective agreement for the purposes of this Act, and
- (b) to continue in force until its renewal or expiry, the completion of the designated project or the repeal of the order made under section 196, whichever first occurs.

(4) Notwithstanding subsection (3)(b), if the project occurs in phases, a collective agreement entered into under this Division is deemed to continue in force with respect to any phase of construction until the completion of that phase of construction or the repeal of the order made under section 196, whichever first occurs.

- (a) *the principal contractor, to the extent that the principal contractor is an employer engaged in the designated project,*
- (b) *the employers on whose behalf the principal contractor bargained collectively, to the extent that they are employers engaged in the designated project,*
- (c) *any other employer who becomes engaged in the designated project after the principal contractor and the trade union entered into a collective agreement, to the extent that the employer is an employer engaged in the designated project,*
- (d) *the trade union, to the extent that the trade union is the bargaining agent for employees of the employers referred to in this section and to the extent that those employees are employed in the designated project, and*
- (e) *the employees on whose behalf the trade union bargained collectively or who become part of the bargaining unit of the trade union, to the extent that the employees are employed in the designated project,*

*are during the currency of that collective agreement deemed to be excluded as provided in subsection (2).*

*(2) Where subsection (1) applies, the persons referred to in that subsection are during the currency of the collective agreement deemed to be excluded from*

- (a) *any registration certificate and the effects of any registration certificate,*
- (b) *any other collective agreement, and*
- (c) *if applicable, any application for a registration certificate, any registration certificate issued as a result of the application and any collective agreement entered into afterwards between a registered employers' organization and a trade union,*

*that, but for this Division, would have applied to them.*

*201(1) If a collective agreement is entered into between a principal contractor and a trade union under this Division, section 40(3)(b), section 54(2)(b) and section 129 do not apply to*

**Persons bound by collective agreement**

**201.2(1)** A collective agreement entered into between a principal contractor and a project trade union under this Division is binding on

- (a) the principal contractor in the principal contractor's capacity as the principal contractor,
- (b) the principal contractor in the principal contractor's capacity as an employer, to the extent that the principal contractor is an employer engaged in the designated project,
- (c) the employers engaged in the designated project, to the extent that the employer is engaged in the designated project with employees represented by the project trade union that is a party to the collective agreement,
- (d) any other employer who becomes engaged in the designated project after the principal contractor and the project trade union entered into a collective agreement, to the extent that the employer is an employer engaged in the designated project with employees represented by the project trade union that is a party to the collective agreement,
- (e) the project trade union, to the extent that the project trade union is the bargaining agent for employees of the employers referred to in this section and to the extent that those employees are employed in the designated project, and
- (f) the employees on whose behalf the project trade union bargained collectively, to the extent that the employees are employed in the designated project by the employers referred to in this section.

**(2)** A collective agreement entered into under this Division between the principal contractor and a project trade union is binding on another project trade union only if that trade union agrees to be bound.

**Effect of collective agreement**

**201.3** The principal contractor, employers, project trade unions and employees that are bound by a collective agreement under this Division are, only to the extent that they are engaged in the designated project, excluded from

*(a) the principal contractor, employers, trade unions and employees referred to in and to the extent specified in section 200, or*

*(b) the collective agreement between the principal contractor and the trade union.*

*(2) If a conflict arises between the provisions of this Division or the regulations under this Division and any other provisions of this Act, this Division or the regulations under this Division shall prevail.*

- (a) any registration certificate and the effects of any registration certificate,
- (b) any other collective agreement, and
- (c) if applicable, any application for a registration certificate, any registration certificate issued as a result of the application and any collective agreement entered into afterwards between a registered employers' organization and a project trade union,

that, but for this Division, would have applied to them in respect of the designated project.

**Application of other provisions of Act**

**201.4(1)** If a collective agreement is entered into between a principal contractor and a project trade union under this Division, sections 40(3)(b), 54(2)(b) and 129 do not apply to

- (a) the principal contractor, employers, project trade unions or employees referred to in and to the extent specified in section 201.1, or
- (b) the collective agreement between the principal contractor and the project trade union.

**(2)** If a conflict arises between the provisions of this Division or the regulations under this Division and any other provisions of this Act, this Division or the regulations under this Division shall prevail.

**(40)** The heading preceding section 207 is repealed and the following is substituted:

**Part 4  
Regulations and  
Transitional  
Provisions**

**(41)** The following is added before section 207:

**Regulation-making authority re M.O. 2020-26**

**206.1(1)** The Lieutenant Governor in Council may make regulations

(40) Part 4 Regulations and Transitional Provisions.

(41) Regulation-making authority re M.O. 2020-26.

(a) respecting the transition to the Act as amended by the *Restoring Balance in Alberta's Workplaces Act, 2020* of anything under M.O. 2020-26, and

(b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the transition to this Act, including the interpretation or application of any transitional provision in this Act.

(2) A regulation made under subsection (1) may be made retroactive to the extent set out in the regulation.

(3) A regulation made under subsection (1) and any action or decision taken under or in accordance with the regulations made under subsection (1) apply despite anything to the contrary in this Act or any collective agreement.

**(42) The following is added after section 208:**

**Transitional provisions re Restoring Balance in Alberta's Workplaces Act, 2020**

**209(1)** In this section,

(a) “former” means, in respect of a section of the Act, the section as it read immediately before the coming into force of the corresponding new section;

(b) “new” means, in respect of a section of the Act, the section as it reads on the coming into force of the section of the *Restoring Balance in Alberta's Workplaces Act, 2020* that amended the corresponding section.

(2) Notwithstanding the coming into force of the *Restoring Balance in Alberta's Workplaces Act, 2020*,

(a) where a complaint is made to the Board under this Act and the Board has not fully disposed of the complaint on the coming into force of this section, the former section 17 continues to apply in respect of the complaint after this section comes into force,

(b) where an application for certification is made to the Board under section 32 and the Board has not fully disposed of the application on the coming into force of

(42) Transitional provisions re Restoring Balance in Alberta's Workplaces Act, 2020.

this section, the former section 34 continues to apply in respect of the application after this section comes into force,

- (c) where an application for revocation is made to the Board under section 51 and the Board has not fully disposed of the application on the coming into force of this section, the former section 53 continues to apply in respect of the application after this section comes into force,
- (d) where a person or trade union is engaged in picketing at the premises referred to in section 84(2) in respect of a labour dispute or difference on the coming into force of this section, section 84.1 does not apply in respect of any picketing at those premises that continues after this section comes into force in respect of the same labour dispute or difference,
- (e) where the Board has not made a decision to declare that a dispute under section 92.2 be resolved by arbitration on the coming into force of this section, the former section 92.3 continues to apply in respect of the decision after this section comes into force,
- (f) where a matter is before an arbitrator, arbitration board or other body and the arbitrator, arbitration board or other body has not fully disposed of the matter on the coming into force of this section, the former section 142 continues to apply in respect of the matter after this section comes into force,
- (g) where a matter is before an arbitrator, arbitration board or other body and the arbitrator, arbitration board or other body has not fully disposed of the matter on the coming into force of this section, the former section 143(1) continues to apply in respect of the matter after this section comes into force,
- (h) where an application for review is made to the Board under section 145(2) and the Board has not fully disposed of the application on the coming into force of this section, the former section 145 continues to apply in respect of the application after this section comes into force,



- (i) where an application is made to the Board under section 149(1)(a), (c), (d), (f) or (g) and the Board has not fully disposed of it on the coming into force of this section, the former section 149(2) continues to apply in respect of the application after this section comes into force,
- (j) where an application is made to the Board under section 151(1)(f) and the Board has not fully disposed of it on the coming into force of this section, section 151(3) does not apply in respect of the application after this section comes into force, and
- (k) where an application is made to the Board under section 151(1)(f) on or after the coming into force of this section that is the same or substantially the same as an application made before the coming into force of this section, section 151(3) does not apply in respect of the application.

**(3)** Notwithstanding the repeal of the former section 196, a regulation made under that section continues in force after the coming into force of this section until the regulation is repealed by the Minister.

**(43)** Subsections (3)(b), (c) and (d), (7), (8), (9), (10), (11), (12), (14), (16), (19), (23)(a), (24), (25), (31), (32)(a), (33)(b)(i) and (ii), (36), (37), (38) and (42), to the extent that it enacts section 209(2)(d) and (h) of the *Labour Relations Code*, come into force on Proclamation.

**(44)** Subsection (20) has effect on the day on which the Bill to enact the *Restoring Balance in Alberta's Workplaces Act, 2020* receives first reading.

### **Part 3**

#### **Police Officers Collective Bargaining Act**

**Amends RSA 2000 cP-18**

**12(1)** The *Police Officers Collective Bargaining Act* is amended by this section.

**(2)** The following is added after section 40:

(43) Coming into force.

(44) Coming into force.

### **Police Officers Collective Bargaining Act**

**12(1)** Amends chapter P-18 of the Revised Statutes of Alberta 2000.

(2) Financial statement.

**Financial statement**

**40.1(1)** Every police association shall, as soon as possible after the end of the police association's fiscal year, provide to each member in accordance with the regulations

- (a) a financial statement, meeting any requirements set out in the regulations, of the police association's affairs for the preceding fiscal year, and
- (b) any information prescribed by the regulations.

**(2)** The financial statement must contain information in sufficient detail to accurately disclose the financial condition and operation of the police association for its preceding fiscal year.

**(3)** If a member makes a complaint to the Board that the police association has failed to comply with subsection (1), the Board may order the police association to provide to the member a financial statement or the information prescribed by the regulations.

**(4)** If the member makes a complaint to the Board that the financial statement or the prescribed information is inadequate, the Board may order the police association to prepare another financial statement or to provide the prescribed information in a form and containing the particulars that the Board considers appropriate.

**(5)** The Minister may make regulations

- (a) respecting requirements that financial statements must meet for the purposes of subsection (1)(a), including requirements that apply to different classes of police associations or particular police associations;
- (b) respecting the manner and form in which financial statements or prescribed information is to be provided to a member or members by a police association;
- (c) prescribing information for the purposes of subsection (1)(b), including information that must be provided by different classes of police associations or particular police associations;
- (d) establishing different classes of police associations for the purposes of this section.



**(3) The following is added after section 42:**

**Deduction election**

**42.1(1)** In this section, “union dues or assessments” means any fees or other charges charged to its members by a police association.

**(2)** In setting union dues or assessments, a bargaining agent must indicate

- (a) the amount or percentage of the union dues or assessments that relates to political activities and other causes, including
  - (i) general social causes or issues,
  - (ii) charities or non-governmental organizations,
  - (iii) organizations or groups affiliated with or supportive of a political party, and
  - (iv) any activities prescribed by the regulations,and
- (b) the amount or percentage of the union dues or assessments that directly relates to
  - (i) activities under this Act or the *Labour Relations Code*, including activities relating to collective bargaining and representation of members, and
  - (ii) other activities that do not fall under subclause (i) or clause (a), including any activities prescribed by the regulations.

**(3)** A bargaining agent, before charging any union dues or assessments, or before changing the amount or percentage of the union dues or assessments to be charged, shall provide to each of its members

- (a) information respecting the amount or percentage of the union dues or assessments that relates to activities referred to in subsection (2)(a) and the amount or

(3) Deduction election.

percentage of the union dues or assessments that directly relates to activities referred to in subsection (2)(b),

- (b) subject to the regulations, information required or reasonably requested by members to make an informed decision for the purpose of making an election under subsection (4) or a revocation under subsection (5), and
- (c) any other information required by the regulations.

**(4)** Effective on and after the date prescribed by the regulations, a member is not required to pay the amount or percentage of the union dues or assessments that relates to activities referred to in subsection (2)(a) unless the member makes an election in accordance with the regulations.

**(5)** An election under subsection (4) may be revoked in accordance with the regulations.

**(6)** Where a member makes an election under subsection (4) or revokes an election under subsection (5), the bargaining agent representing the member in a unit must notify the member's employer of the member's election or revocation if the union dues are deducted from wages due to the member by the employer.

**(7)** No bargaining agent shall expel or suspend a member or take disciplinary action against or impose any form of penalty on a member

- (a) because the member has not made an election under subsection (4) or has revoked an election under subsection (5), or
- (b) because the member does not pay the amount or percentage of the union dues or assessments that relates to activities referred to in subsection (2)(a) unless the member has made an election under subsection (4).

**(8)** No bargaining agent shall collect union dues or assessments from a member or use union dues or assessments collected from a member for activities referred to in subsection (2)(a) unless the member has made an election under subsection (4).



**(9)** No bargaining agent shall use union dues or assessments collected for activities referred to in subsection (2)(b) for any activities other than those referred to in subsection (2)(b).

**(10)** If there is a dispute

- (a) as to whether the union dues or assessments relate to an activity referred to in subsection (2)(a) or directly relate to an activity referred to in subsection (2)(b),
- (b) as to whether an election was made under subsection (4) or revoked under subsection (5) in accordance with the regulations,
- (c) as to whether the information required by the regulations to be provided by a bargaining agent is sufficient to enable a person to make an informed decision for the purpose of making an election under subsection (4) or revoking an election under subsection (5), or
- (d) with respect to any other matter under this section,

a party to the dispute may apply to the Board to resolve the dispute.

**(11)** Where an application has been made under subsection (10), the Board may make any order it considers appropriate to resolve the dispute, including an order

- (a) that the bargaining agent produce any necessary information required for the purpose of this section,
- (b) adjusting the amount or percentage of the union dues or assessments that relates to an activity referred to in subsection (2)(a) or directly relates to an activity referred to in subsection (2)(b),
- (c) that the collection or use of union dues or assessments for activities referred to in subsection (2)(a) in contravention of subsection (8) is to cease,
- (d) for restitution to employees of union dues or assessments that have been collected or used for activities referred to in subsection (2)(a) in contravention of subsection (8), or



- (e) suspending the trade union's ability to collect union dues or assessments from employers or employees.

**(12)** Regulations made under section 26.1(11) of the *Labour Relations Code* apply for the purposes of this section.

**(4) This section comes into force on Proclamation.**

#### **Part 4**

#### **Post-secondary Learning Act**

**Amends SA 2003 cP-19.5**

**13(1) The *Post-secondary Learning Act* is amended by this section.**

**(2) Section 86(2) is amended by adding the following after clause (e):**

- (e.1) in its role as bargaining agent, the charging of union dues and the amount of those dues;

**(3) Section 92.2(2) is amended by adding the following after clause (e):**

- (e.1) in its role as bargaining agent, the charging of union dues and the amount of those dues;

**(4) Section 95(2) is amended by adding the following after clause (f.1):**

- (f.2) in the case of a graduate students association in its role as bargaining agent for academically employed graduate students, the charging of union dues and the amount of those dues;

- (4) Coming into force.

### **Post-secondary Learning Act**

- 13(1)** Amends chapter P-19.5 of the Statutes of Alberta, 2003.

- (2) Section 86(2) presently reads in part:

*(2) The academic staff association shall, with the approval of the academic staff members, make bylaws governing its affairs, and those bylaws shall contain provisions governing at least the following matters:*

- (e) the charging of membership fees and the amount of those fees;*

- (3) Section 92.2(2) presently reads in part:

*(2) The postdoctoral fellows association shall, with the approval of the members of the association, make bylaws governing its affairs, and those bylaws must contain provisions governing at least the following matters:*

- (e) the charging of membership fees and the amount of those fees;*

- (4) Section 95(2) presently reads in part:

*(2) The council of a student organization may make bylaws governing*

- (f.1) in the case of a graduate students association, its role as bargaining agent for academically employed graduate students, which must require the association to ascertain and act on the wishes of the academically employed graduate students;*

**(5) This section comes into force on Proclamation.**

## **Part 5**

### **Public Education Collective Bargaining Act**

**Amends SA 2015 cP-36.5**

**14(1) The *Public Education Collective Bargaining Act* is amended by this section.**

**(2) The following is added after section 5:**

#### **Deduction election**

**5.1(1)** This section applies instead of section 26.1 of the *Labour Relations Code* with respect to employees under this Act.

**(2)** In setting fees, dues or other levies, ATA must indicate

- (a) the amount or percentage of the fees, dues or other levies that relates to political activities and other causes, including
  - (i) general social causes or issues,
  - (ii) charities or non-governmental organizations,
  - (iii) organizations or groups affiliated with or supportive of a political party, and
  - (iv) any activities prescribed by the regulations,
- (b) the amount or percentage of the fees, dues or other levies that directly relates to professional development and professional governance, and
- (c) the amount or percentage of the fees, dues or other levies that directly relates to
  - (i) activities under this Act or the *Labour Relations Code*, including activities relating to collective bargaining and representation of members, and
  - (ii) other activities that do not fall under subclause (i) or clause (a) or (b), including any activities prescribed by the regulations.

(5) Coming into force.

### **Public Education Collective Bargaining Act**

**14(1)** Amends chapter P-36.5 of the Statutes of Alberta, 2015.

(2) Deduction election.

**(3)** ATA, before charging any fees, dues or other levies, or before changing the amount or percentage of the fees, dues or other levies to be charged, shall provide to each employee

- (a) information respecting
  - (i) the amount or percentage of the fees, dues or other levies that relates to activities referred to in subsection (2)(a),
  - (ii) the amount or percentage of the fees, dues or other levies that directly relates to activities referred to in subsection (2)(b), and
  - (iii) the amount or percentage of the fees, dues or other levies that directly relates to activities referred to in subsection (2)(c),
- (b) subject to the regulations, information required or reasonably requested by employees to make an informed decision for the purpose of making an election under subsection (4) or a revocation under subsection (5), and
- (c) any other information required by the regulations.

**(4)** Effective on and after the date prescribed by the regulations, an employee is not required to pay the amount or percentage of the fees, dues or other levies that relates to activities referred to in subsection (2)(a) unless the employee makes an election in accordance with the regulations.

**(5)** An election under subsection (4) may be revoked in accordance with the regulations.

**(6)** Where an employee makes an election under subsection (4) or revokes an election under subsection (5), ATA shall notify the employee's employer of the employee's election or revocation.

**(7)** Notwithstanding section 13 of the *Teaching Profession Act*, an employee's employer shall not deduct the amount or percentage of the fees, dues or other levies that relates to activities referred to in subsection (2)(a) from the salary of the employee unless the employee has made an election under subsection (4).



**(8)** ATA shall not expel or suspend an employee or take disciplinary action against or impose any form of penalty on an employee because the employee has not made an election under subsection (4) or has revoked an election under subsection (5).

**(9)** ATA shall not collect fees, dues or other levies from an employee or use fees, dues or other levies collected from an employee for activities referred to in subsection (2)(a) unless the employee has made an election under subsection (4).

**(10)** ATA shall not use fees, dues or other levies collected for activities referred to in subsection (2)(b) or (c) for any activities other than those referred to in subsection (2)(b) or (c).

**(11)** If there is a dispute

- (a) as to whether the fees, dues or other levies relate to an activity referred to in subsection (2)(a) or directly relate to an activity referred to in subsection (2)(b) or (c),
- (b) as to whether an election was made under subsection (4) or revoked under subsection (5) in accordance with the regulations,
- (c) as to whether the information required by the regulations to be provided by ATA is sufficient to enable an employee to make an informed decision for the purpose of making an election under subsection (4) or revoking an election under subsection (5), or
- (d) with respect to any other matter under this section,

a party to the dispute may apply to the Labour Relations Board to resolve the dispute.

**(12)** Where an application has been made under subsection (11), the Labour Relations Board may make any order it considers appropriate to resolve the dispute, including an order

- (a) that ATA produce any necessary information required for the purpose of this section,
- (b) adjusting the amount or percentage of the fees, dues or other levies that relates to an activity referred to in



subsection (2)(a) or directly relates to an activity referred to in subsection (2)(b) or (c),

- (c) that the collection or use of fees, dues, or other levies for activities referred to in subsection (2)(a) in contravention of subsection (9) is to cease,
- (d) for restitution to employees of fees, dues, or other levies that have been collected for activities referred to in subsection (2)(a) in contravention of subsection (9), or
- (e) suspending ATA's ability to collect dues from employers or employees.

**(13)** Regulations made under section 26.1(11) of the *Labour Relations Code* apply for the purposes of this section.

**(3) Section 6(2) is amended**

- (a) by adding "fees," before "dues" wherever it occurs;**
- (b) by striking out "union representation" and substituting "activities under this Act and the *Labour Relations Code*".**

**(4) This section comes into force on Proclamation.**

**Part 6**

**Public Service Employee Relations Act**

**Amends RSA 2000 cP-43**

**15(1) The *Public Service Employee Relations Act* is amended by this section.**

(3) Section 6(2) presently reads:

*(2) If the Labour Relations Board is satisfied that an employee because of the employee's religious conviction or religious belief*

*(a) objects to joining a trade union, or*

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

*the Board may order that the employee's membership in ATA does not include union membership or that the employee is not liable to pay to ATA an amount determined by the Board that represents that portion of dues or other levies related to union representation, and that an amount equal to the amount determined by the Board must be remitted by ATA from the amount paid to it by the employer under section 13 of the Teaching Profession Act to a charitable organization agreed on by the employee and ATA.*

(4) Coming into force.

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

**15(1)** Amends chapter P-43 of the Revised Statutes of Alberta 2000.

**(2) The following is added after section 4:**

**Financial statement**

**4.1(1)** Every trade union shall, as soon as possible after the end of the trade union's fiscal year, provide to each member in accordance with the regulations

- (a) a financial statement, meeting any requirements set out in the regulations, of the trade union's affairs for the preceding fiscal year, and
- (b) any information prescribed by the regulations.

**(2)** The financial statement must contain information in sufficient detail to accurately disclose the financial condition and operation of the trade union for its preceding fiscal year.

**(3)** If a member makes a complaint to the Board that the trade union has failed to comply with subsection (1), the Board may order the trade union to provide to the member a financial statement or the information prescribed by the regulations.

**(4)** If the member makes a complaint to the Board that the financial statement or the prescribed information is inadequate, the Board may order the trade union to prepare another financial statement or to provide the prescribed information in a form and containing the particulars that the Board considers appropriate.

**(5)** The Minister may make regulations

- (a) respecting requirements that financial statements must meet for the purposes of subsection (1)(a), including requirements that apply to different classes of trade unions or particular trade unions;
- (b) respecting the manner and form in which financial statements or prescribed information is to be provided to a member or members by a trade union;
- (c) prescribing information for the purposes of subsection (1)(b), including information that must be provided by different classes of trade unions or particular trade unions;

(2) Financial statement.

- (d) establishing different classes of trade unions for the purposes of this section.

**(3) Section 7 is amended by striking out “periodic dues” and substituting “union dues”.**

**(4) Section 22 is amended**

**(a) by renumbering section 22 as section 22(1);**

**(b) in subsection (1)(a)(i) by striking out “trade union dues” and substituting “union dues”;**

**(c) by adding the following after subsection (1):**

**(2)** Notwithstanding a collective agreement made under subsection (1)(a), effective on and after the date prescribed by the regulations, an employer shall not deduct the amount or percentage of the union dues referred to in section 22.1(1)(a) unless the employee has made an election under section 22.1(3).

**(5) The following is added after section 22:**

(3) Section 7 presently reads:

*7 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 with specific charges in writing,*
- (b) given a reasonable time to prepare the person's 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, when a fine is imposed, fails to pay the fine after having been given a reasonable time to do so.*

(4) Section 22 presently reads:

*22 An employer and a bargaining agent may enter into a collective agreement*

- (a) authorizing or requiring an employer to deduct from the pay of employees who are members of the unit on whose behalf the bargaining agent is bargaining collectively*
  - (i) trade union dues, or*
  - (ii) a sum that is the equivalent of the dues paid by members of the trade union;*
- (b) requiring that all the employees of an employer or any unit of employees become members of a trade union during their employment.*

(5) Deduction election.

**Deduction election**

**22.1(1)** In setting union dues, assessments or initiation fees, a trade union must indicate

- (a) the amount or percentage of the union dues, assessments or initiation fees that relates to political activities and other causes, including
  - (i) general social causes or issues,
  - (ii) charities or non-governmental organizations,
  - (iii) organizations or groups affiliated with or supportive of a political party, and
  - (iv) any activities prescribed by the regulations,and
- (b) the amount or percentage of the union dues, assessments or initiation fees that directly relates to
  - (i) activities under this Act, including activities relating to collective bargaining and representation of members, and
  - (ii) other activities that do not fall under subclause (i) or clause (a), including any activities prescribed by the regulations.

**(2)** A trade union, before charging any union dues, assessments or initiation fees, or before changing the amount or percentage of the union dues, assessments or initiation fees to be charged, shall provide to each person required to pay the union dues, assessments or initiation fees

- (a) information respecting the amount or percentage of the union dues, assessments or initiation fees that relates to activities referred to in subsection (1)(a) and the amount or percentage of the union dues, assessments or initiation fees that directly relates to activities referred to in subsection (1)(b),
- (b) subject to the regulations, information required or reasonably requested by a person to make an informed



decision for the purpose of making an election under subsection (3) or a revocation under subsection (4), and

(c) any other information required by the regulations.

**(3)** Effective on and after the date prescribed by the regulations, a person is not required to pay the amount or percentage of the union dues, assessments or initiation fees that relates to activities referred to in subsection (1)(a) unless the person makes an election in accordance with the regulations.

**(4)** An election under subsection (3) may be revoked in accordance with the regulations.

**(5)** Where an employee makes an election under subsection (3) or revokes an election under subsection (4), the trade union representing the employee in a unit must notify the employee's employer of the employee's election or revocation if the union dues are deducted in accordance with section 22.

**(6)** Notwithstanding section 7, no trade union shall expel or suspend a member or take disciplinary action against or impose any form of penalty on a member

(a) because the member has not made an election under subsection (3) or has revoked an election under subsection (4), or

(b) because the member does not pay the amount or percentage of the union dues, assessments or initiation fees that relates to activities referred to in subsection (1)(a) unless the member has made an election under subsection (3).

**(7)** No trade union shall collect union dues, assessments or initiation fees from an employee or use union dues, assessments or initiation fees collected from an employee for activities referred to in subsection (1)(a) unless the employee has made an election under subsection (3).

**(8)** No trade union shall use union dues, assessments or initiation fees collected for activities referred to in subsection (1)(b) for any activities other than those referred to in subsection (1)(b).



**(9)** If there is a dispute

- (a) as to whether the union dues, assessments or initiation fees relate to an activity referred to in subsection (1)(a) or directly relate to an activity referred to in subsection (1)(b),
- (b) as to whether an election was made under subsection (3) or revoked under subsection (4) in accordance with the regulations,
- (c) as to whether the information required by the regulations to be provided by a trade union is sufficient to enable a person to make an informed decision for the purpose of making an election under subsection (3) or revoking an election under subsection (4), or
- (d) with respect to any other matter under this section,

a party to the dispute may apply to the Board to resolve the dispute.

**(10)** Where an application has been made under subsection (9), the Board may make any order it considers appropriate to resolve the dispute, including an order

- (a) that the trade union produce any necessary information required for the purpose of this section,
- (b) adjusting the amount or percentage of the union dues, assessments or initiation fees that relates to an activity referred to in subsection (1)(a) or directly relates to an activity referred to in subsection (1)(b),
- (c) that the collection or use of union dues, assessments or initiation fees for activities referred to in subsection (1)(a) in contravention of subsection (7) is to cease,
- (d) for restitution to employees of union dues, assessments or initiation fees that have been collected or used for activities referred to in subsection (1)(a) in contravention of subsection (7), and
- (e) suspending the trade union's ability to collect union dues from employers or employees.

**(11)** Regulations made under section 26.1(11) of the *Labour Relations Code* apply for the purposes of this section.



**(6) Section 45(3) is amended**

**(a) in clause (a)(ii) by striking out** “periodic dues, assessments and initiation fees” **and substituting** “union dues, assessments and initiation fees referred to in section 22.1(1)(b)”;

**(b) by adding the following after clause (e.1):**

(e.2) suspend, discharge or impose any financial or other penalty on an employee, or take any other disciplinary action against an employee, because the employee has made or refrained from making an election under section 22.1(3) or revoked or refrained from revoking an election under section 22.1(4);

(e.3) collect union dues, assessments or initiation fees related to activities referred to in section 22.1(1)(a) where an employee has not made an election under section 22.1(3);

(e.4) seek through coercion, intimidation, threats, promises or undue influence to compel employees to make or refrain from making an election under section 22.1(3) or to revoke or refrain from revoking an election under section 22.1(4);

**(7) Section 47 is amended**

**(a) in clause (d) by adding** “, including activity relating to making an election under section 22.1(3) or to revoking an election under section 22.1(4)” **after** “in or for a trade union”;

**(b) in clause (e) by striking out** “periodic dues, assessments and initiation fees” **and substituting** “union dues, assessments and initiation fees referred to in section 22.1(1)(b)”.

**(8) This section comes into force on Proclamation.**

(6) Section 45(3) presently reads in part:

*(3) No employer and no person acting on behalf of an employer shall*

- (a) refuse to employ or terminate the employment of any person or discriminate against any person in regard to employment or any term or condition of employment because the person*
- (ii) 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 union as a condition of acquiring or retaining membership in the trade union,*
- (e.1) suspend, discharge or impose a financial or other penalty on an employee, or take any other disciplinary action against an employee, by reason of the employee's 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;*

(7) Section 47 presently reads in part:

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

- (d) use coercion or intimidation of any kind with respect to any employee with a view to encouraging or discouraging membership or activity in or for a trade union;*
- (e) require an employer to terminate the employment of an employee because the employee 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;*

(8) Coming into force.





