



Province of Alberta

# **LABOUR RELATIONS CODE**

Revised Statutes of Alberta 2000  
Chapter L-1

Current as of January 1, 2018

Office Consolidation

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2012 cE-0.3 s274 amends s48(1)(c).

### Regulations

The following is a list of the regulations made under the *Labour Relations Code* that are filed as Alberta Regulations under the Regulations Act

**Alta. Reg.**                      *Amendments*

#### Labour Relations Code

Construction Industry Jurisdictional		
Assignment Plan.....	2/2000	
Construction Industry Labour Relations .....	165/2005	30/2015, 19/2018
Horizon Oil Sands Project		
Designation .....	264/2004	194/2013
Regional Health Authority		
Collective Bargaining.....	80/2003	40/2008, 64/2009, 51/2015, 22/2016

# **LABOUR RELATIONS CODE**

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**Preamble**

WHEREAS it is recognized that mutually effective relationships between employees and employers are critical to the capacity of Albertans to prosper in the competitive worldwide market economy of which Alberta is a part;

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

WHEREAS it is recognized that legislation supportive of freedom of association, and free collective bargaining through trade unions when chosen by employees, are important components of Alberta's social and economic well-being; and

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;

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

**Definitions**

**1(1)** In this Act,

- (a) "bargain collectively" or "collective bargaining" means to negotiate or negotiation with a view to the conclusion of a collective agreement or the revision or renewal of a collective agreement;

- (b) “bargaining agent” means a trade union that acts on behalf of employees in collective bargaining or as a party to a collective agreement with an employer or an employers’ organization, whether or not the bargaining agent is a certified bargaining agent;
- (c) “Board” means the Labour Relations Board;
- (d) “certified bargaining agent” means a trade union certified by the Board as a bargaining agent;
- (e) “Chair” means the Chair of the Board;
- (f) “collective agreement” means an agreement in writing between an employer or an employers’ organization and a bargaining agent containing terms or conditions of employment, and may include one or more documents containing one or more agreements;
- (f.1) “Commissioner” means the Commissioner designated under section 95.3;
- (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;
- (h) “Court” means the Court of Queen’s Bench;
- (h.01) “dependent contractor” means a person, whether or not employed under a contract of employment, and whether or not furnishing tools, vehicles, equipment, machinery, material or any other thing owned by the dependent contractor, who performs work or services for another person for compensation or reward on such terms and conditions that the dependent contractor is in a position of economic dependence on, and under an obligation to perform duties for, that person which more closely resembles the relationship of an employee than that of an independent contractor;
- (h.1) “designated essential services worker” means a designated essential services worker as defined in Part 2, Division 15.1;

- (i) “Director” means the person appointed under the *Public Service Act* as the Director of Mediation Services;
- (j) “dispute” means a difference or apprehended difference arising in connection with the entering into, renewing or revising of a collective agreement;
- (k) “disputes resolution tribunal” means
  - (i) a voluntary arbitration board referred to in Part 2, Division 15,
  - (ii) a compulsory arbitration board referred to in Part 2, Division 16,
  - (iii) a disputes inquiry board referred to in Part 2, Division 17,
  - (iii.1) an arbitrator or arbitration board referred to in Part 2, Division 14.1, or
  - (iv) a public emergency tribunal referred to in Part 2, Division 18;
- (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
  - (i) a person who in the opinion of the Board performs managerial functions or is employed in a confidential capacity in matters relating to labour relations,
  - (ii) a person who is a member of the medical, dental, architectural, engineering or legal profession qualified to practise under the laws of Alberta and 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 farm or ranch who is a family member of the farm or ranch employer as determined under subsections (2) and (3);
- (m) “employer” means a person who customarily or actually employs an employee;

- (n) “employers’ organization” means an organization of employers that acts on behalf of an employer or employers and has as one of its objects the regulation of relations between employers and employees, whether or not the organization is a registered employers’ organization;
- (n.1) “essential services agreement” means an essential services agreement under Part 2, Division 15.1;
- (o) “firefighters” means the employees, including officers and technicians, employed by a municipality or Metis settlement and assigned exclusively to fire protection and fire prevention duties notwithstanding that those duties may include the performance of ambulance or rescue services;
- (p) “lockout” includes
  - (i) the closing of a place of employment by an employer,
  - (ii) the suspension of work by an employer, or
  - (iii) a refusal by an employer to continue to employ employees,  
  
for the purpose of compelling the employer’s employees, or to aid another employer in compelling the employees of that employer, to accept terms or conditions of employment;
- (q) “lockout vote” means the polling of a single employer or a vote of employers under section 76(2);
- (r) “mediator” means a person whose services are provided under section 64 or who is appointed as a mediator under this Act;
- (s) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (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;
- (t) “officer” means a person designated under section 8(8);
- (t.1) “regional health authority” means a regional health authority under the *Regional Health Authorities Act*;

- (u) “registered employers’ organization” means an employers’ organization registered by the Board as an agent for collective bargaining in a part of the construction industry;
  - (v) “strike” includes
    - (i) a cessation of work,
    - (ii) a refusal to work, or
    - (iii) a refusal to continue to work,  
  
by 2 or more employees acting in combination or in concert or in accordance with a common understanding for the purpose of compelling their employer or an employers’ organization to agree to terms or conditions of employment or to aid other employees to compel their employer or an employers’ organization to accept terms or conditions of employment;
  - (w) “strike vote” means a vote of employees under section 76(1);
  - (x) “trade union” means an organization of employees that has a written constitution, rules or bylaws and has as one of its objects the regulation of relations between employers and employees;
  - (y) “unit” means any group of employees of an employer;
  - (z) “vice-chair” means a vice-chair of the Board;
  - (aa) “wages” includes any salary, pay, overtime pay and any other remuneration for work or services however computed or paid, but does not include tips and other gratuities.
- (2)** For the purposes of subsection (1)(l)(iv), a person is employed on a farm or ranch when the person’s employment is directly related to
- (a) the primary production of eggs, milk, grain, seeds, fruit, vegetables, honey, livestock, diversified livestock animals within the meaning of the *Livestock Industry Diversification Act*, poultry or bees, or
  - (b) any other primary agricultural operation specified in the regulations under the *Employment Standards Code*.
- (3)** For the purpose of subsection (1)(l)(iv),



- (a) “farm or ranch employer” means
- (i) a corporation engaged in a farming or ranching operation where all shareholders are family members of the same family,
  - (ii) a sole proprietor engaged in a farming or ranching operation, and
  - (iii) a partnership engaged in a farming or ranching operation where all partners are family members of the same family;
- (b) “family member”, in relation to a shareholder, sole proprietor or partner referred to in clause (a), means
- (i) the spouse or adult interdependent partner of the shareholder, sole proprietor or partner, or
  - (ii) whether by blood, marriage or adoption or by virtue of an adult interdependent relationship, a child, parent, grandparent, sibling, aunt, uncle, niece, nephew or first cousin of the shareholder, sole proprietor or partner or of the shareholder’s, sole proprietor’s or partner’s spouse or adult interdependent partner,

and includes any other person who is a member of a class of persons designated in the regulations under the *Employment Standards Code*.

RSA 2000 cL-1 s1;2003 c6 s2;2016 c10 s2;2017 c9 s103

#### **Delegation of Minister’s and Director’s responsibilities**

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

**(2)** Subsection (1) does not apply to the Minister’s power to direct a vote under section 15(3)(b) or to consent to a prosecution under section 162.

1988 cL-1.2 s2

#### **Witnesses**

**3(1)** The Minister, a member or officer of the Board, an employee of the Crown in right of Alberta employed in the administration of this Act or any person designated by the Minister or selected by the

parties to endeavour to effect settlement of any matter to which this Act applies is not a compellable witness in proceedings before any court respecting any information, material or report obtained by that person under this Act.

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

1988 cL-1.2 s3

#### **Application of Act**

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

(2) This Act does not apply to

- (a) an employer as defined in the *Public Service Employee Relations Act* and to whom that Act applies;
- (b) a person employed by an employer as defined in the *Public Service Employee Relations Act* and to whom that Act applies;
- (c) employers and employees in respect of whom this Act does not apply by virtue of a provision of another Act;
- (d) employees who are police officers of a municipal police service appointed pursuant to the *Police Act*, except to the extent that this Act is made applicable by the *Police Officers Collective Bargaining Act*;
- (e) repealed 2017 c9 s104;
- (f) employees employed in domestic work in a private dwelling or to their employer while the employer is ordinarily resident in the dwelling and acting in the capacity of their employer.

RSA 2000 cL-1 s4;2003 c26 s19;2011 c12 s33;2017 c9 s104

## **Part 1 Communication and Education**

#### **Powers of the Minister and dissemination of information**

**5(1)** Subject to this Act, the Minister may, through communication and education, do those things the Minister considers beneficial to the promotion of fair and equitable labour relations in Alberta.

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

- (a) collect information and statistics relating to labour relations, and
- (b) disseminate information in a manner and form that the Minister considers will best promote fair and equitable labour relations.

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

1988 cL-1.2 s5

#### **Multi-sector advisory council**

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

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

- (a) appoint or provide for the manner of appointment of its members,
- (b) prescribe the term of office of any member,
- (c) designate or provide for the designation of a chair, vice-chair or secretary,
- (d) authorize, fix and provide for the payment of remuneration and expenses to its members, and
- (e) make rules governing the calling of its meetings, the conduct of business at its meetings, reporting and any other matters as required.

(3) A council established pursuant to this section may make rules governing any matter referred to in subsection (2)(e) to the extent that the Minister has not made rules under that clause governing the matter.

(4) Subject to this Act, a council established pursuant to this section may exercise the powers and shall perform the duties and functions that the Minister confers or imposes on it.

1988 cL-1.2 s6

**Round-table conference**

**7** The Minister shall, from time to time, convene a conference consisting of representatives of business, trade unions, the academic community and any other groups the Minister considers advisable for the purpose of developing a general understanding of Alberta's economic circumstances and those factors critical to continued economic growth.

1988 cL-1.2 s7

**Part 2  
Labour Relations****Division 1  
Labour Relations Board****Composition of Board**

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

**(2)** The Board shall be composed of persons appointed as members of the Board by the Lieutenant Governor in Council.

**(3)** One of the members of the Board shall be designated as Chair and other members of the Board may be designated as vice-chairs.

**(4)** The Chair may designate a vice-chair as acting Chair to act as Chair when the Chair is temporarily unable to act or is temporarily absent.

**(4.1)** The Commissioner, in consultation with the Chair, may designate the Chair or a vice-chair to act as Commissioner when the Commissioner is unable to act or is absent.

**(5)** The Lieutenant Governor in Council may establish Divisions of the Board and, in that case,

- (a) the Chair is, by reason of the Chair's office, a member of each Division,
- (b) a vice-chair and a member may be appointed to one or more Divisions and more than one vice-chair may be appointed to a Division,
- (c) a vice-chair may sit as a vice-chair only in a Division to which the vice-chair was appointed, and
- (d) the Chair may on a case-by-case basis assign a member to a Division other than the Division to which the member was appointed.

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

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

and may, subject to the *Alberta Public Agencies Governance Act* and any applicable regulations under that Act, be reappointed for additional terms to commence on the expiry of their appointment.

(7) The members of the Board shall be paid expenses, allowances and remuneration for their services as determined by the Lieutenant Governor in Council in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*.

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

RSA 2000 cL-1 s8;2009 cA-31.5 s55;2016 c10 s3

#### **Sittings and business of Board**

**9(1)** The members of the Board shall meet at the times and places specified by the Chair or a vice-chair and may meet as the Board or as a panel established under subsection (4).

(2) The Chair shall assign the business of the Board to the Division that, in the Chair's opinion, is the appropriate Division to conduct the business.

(3) The Chair's decision under subsection (2) is final.

(4) The Chair may establish from the members of a Division panels to conduct the Board's business that is assigned to that Division.

(5) At the direction of the Chair, a vice-chair shall preside at a meeting of the Board or a panel.

(6) A quorum of the Board or a panel is the Chair or a vice-chair presiding at the meeting and 2 other members.

**(6.1)** Notwithstanding subsection (6), in the event of the death or incapacity of the person who is presiding over a proceeding in which the evidence and argument have been heard,

- (a) the remaining members may decide the matter, if at least one of the remaining members is the Chair or a vice-chair and there are at least 2 other members on the panel, or

(b) if clause (a) does not apply, the remaining members, if unanimous in their decision, may decide the matter.

**(7)** A decision of a majority of the members of the Board or a panel present and constituting a quorum is the decision of the Board, but if there is a tie vote, the Chair or the vice-chair presiding at the meeting may cast a 2nd vote.

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

**(9)** If a member of the Board resigns or the member's appointment terminates, the member may carry out and complete the duties or responsibilities and continue to exercise the powers that the member would have had if the member had not ceased to be a member in relation to a proceeding in which the member participated as a member of the Board, until the proceeding is completed.

**(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).

**(11)** The Chair or a vice-chair sitting alone may

- (a) where all of the parties consent, or
- (b) where, after a period of notice determined by the Board, none of the parties object,

grant any order or directive within the Board's jurisdiction.

**(12)** When the Chair or a vice-chair sits alone under subsection (10) or (11) or the Board meets as a panel, the Chair, vice-chair or panel, as the case may be, is deemed to be the Board for the purposes of this Act.

**(13)** Notwithstanding subsections (6), (10) and (11), a Commissioner, when exercising the powers, duties or functions of the Commissioner under Part 2, Division 15.1, may sit alone to hear and decide a question and may grant any order or directive within the Board's jurisdiction, and is deemed to be the Board for the purposes of this Act when exercising those powers.

**(14)** Notwithstanding subsection (2), the Commissioner may, from time to time and in consultation with the Chair, delegate to the Chair or a vice-chair any powers, duties or functions of the

Commissioner under this Act with respect to any matter specified by the Commissioner.

**(15)** Notwithstanding subsection (4), the Commissioner may, in consultation with the Chair, establish and chair a panel of members of the Board to carry out any power, duty or function of the Commissioner under this Act.

RSA 2000 cL-1 s9;2016 c10 s4;2017 c9 s105

### **Staff**

**10(1)** In accordance with the *Public Service Act*, there may be appointed any employees necessary for the administration of this Act or any other enactment administered by the Board.

**(2)** For the purposes of the *Financial Administration Act*, the Chair has all the powers of the deputy head of a department.

1994 c19 s1

### **Informal procedure**

**11(1)** Notwithstanding section 9, the Chair may, where in the interest of settlement of the matter in dispute it is desirable to do so, assign any matter before the Board to one or more members of the Board.

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

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

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

1988 cL-1.2 s10;1994 c19 s1

### **Powers of the Board**

**12(1)** Notwithstanding anything in this Act, the powers and duties of the Board shall be exercised and performed in a manner consistent with the jurisdiction conferred on the Board by this Act or any other enactment conferring jurisdiction on the Board.

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

- (a) receive applications, references and complaints,
  - (b) conduct any inquiries or investigations that it considers necessary, either itself or through its officers,
  - (c) conduct any hearings that it considers necessary,
  - (d) require, conduct or supervise votes only by secret ballot,
  - (e) make or issue any interim orders, decisions, directives or declarations it considers necessary pending the final determination of any matter before the Board,
  - (f) make or issue any orders, decisions, notices, directives, declarations or certificates it considers necessary,
  - (f.1) order the pre-hearing production of documents and things relevant to an application before the Board,
  - (g) make rules
    - (i) of procedure for the conduct of its business, including inquiries and hearings,
    - (ii) for the giving of notice and the service of documents,
    - (iii) for the charging of fees for services or materials provided by or at the direction of the Board in a proceeding before it or in an application under section 19(2), and
    - (iv) for any other matters it considers necessary,
  - (h) through its members, officers and other representatives undertake efforts to assist the parties to a proceeding before the Board to settle the matter, and
  - (i) award any costs it considers appropriate in the circumstances if an application, reference or complaint, or a reply or defence to it, is, in the opinion of the Board, trivial, frivolous, vexatious or abusive.
- (3)** The Board may decide for the purposes of this Act whether
- (a) a person is an employer,
  - (b) a person is an employee,
  - (c) an organization or association is an employers' organization,
  - (d) an organization of employees is a trade union,



- (e) an employer has given an employers' organization authority to bargain collectively on the employer's behalf or has revoked that authority,
- (f) a collective agreement has been entered into,
- (g) a person is bound by a collective agreement,
- (h) a person is a party to a collective agreement,
- (i) a collective agreement has been entered into on behalf of any person,
- (j) a collective agreement is in effect,
- (k) the parties to a dispute have settled the terms to be included in a collective agreement,
- (l) a group of employees is a unit appropriate for collective bargaining,
- (m) a person has applied for membership or has terminated the person's membership in a trade union,
- (n) a person is a member in good standing of a trade union,
- (o) a person is included in or excluded from a unit,
- (p) an employer is affected by a registration certificate of a registered employers' organization,
- (q) an employee is employed in a sector,
- (r) an employee is employed in a trade jurisdiction,
- (s) an employer is engaged in the construction industry or in a part of the construction industry,
- (t) a strike has occurred or is lawful under this Act, or
- (u) a lockout has occurred or is lawful under this Act,
- (v) repealed 2017 c9 s106

and the Board's decision is final and binding.

**(4)** The Board has exclusive jurisdiction to exercise the powers conferred on it by or under this Act and to determine all questions of fact or law that arise in any matter before it and the action or decision of the Board on them is final and conclusive for all purposes, but the Board may, at any time, whether or not an

application has commenced under section 19(2), reconsider any decision, order, directive, declaration or ruling made by it and vary, revoke or affirm the decision, order, directive, declaration or ruling.

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

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

RSA 2000 cL-1 s12;2008 c9 s2;2017 c9 s106

### **Inquiries, investigations and inspections**

**13(1)** The Board or an officer may

- (a) inspect and examine all books, payrolls and other records of an employer, an employee or any other person relating to employment or terms or conditions of employment;
- (b) by notice in writing demand the production of any books, records, documents, papers, payrolls, contracts of employment or other records relevant to employment or terms and conditions of employment or relevant to the membership or constitution of a trade union or employers' organization, either forthwith or at a date, place and time specified in the notice;
- (c) take extracts from or make copies of books, records, documents, papers, payrolls, contracts of employment and any other records relating to employment or terms or conditions of employment;
- (d) require an employer, employee or any other person to make, furnish or produce full and correct statements either orally or in writing respecting employment or terms and conditions of employment, and may require the statements to be made on oath or to be verified by statutory declaration;
- (e) post or require any employer, trade union, employee or other person to post any notices or other communications of the Board at the locations that the Board or officer, as the case may be, considers advisable.

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

- (a) enter, inspect and examine at all reasonable times any premises or other place, other than a private dwelling, in which the officer has reason to believe that a person is employed,
- (b) make any examination and inquiry necessary to ascertain whether the provisions of this Act or any order, decision, directive, declaration or notice of the Board or any written instructions of the Chair, a vice-chair or an officer have been complied with, and
- (c) question an employee, without the employee's employer being present, during the employee's regular hours of work or otherwise.

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

1988 cL-1.2 s12

#### **Evidence**

**14(1)** For the purposes of this Act, officers and members of the Board may administer oaths.

**(2)** Subject to subsection (3), the Board may, by order, summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce the documents and things the Board considers requisite to the full investigation and consideration of matters within its jurisdiction in the same manner as a court of record may in civil cases.

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

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

**(5)** The Board

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

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

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

- (a) is or is not a member of a trade union,
- (b) has or has not applied for membership in a trade union, or
- (c) has or has not indicated in writing the person's selection of a trade union to be, or the person's opposition to the trade union's being, the bargaining agent on the person's behalf.

**(7)** When the Board receives information in confidence the disclosure of which would, in the opinion of the Board, be likely to harm labour relations, the Board may by order protect against the disclosure of the information to any person, other than the parties to the Board's proceedings, until the Board is of the opinion that the disclosure of the information would no longer harm labour relations.

RSA 2000 cL-1 s14;2017 c9 s107

#### **Conduct of votes**

**15(1)** For the purposes of this Act, the Board may require, conduct or supervise votes.

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

**(3)** The Board

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

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

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

- (a) make rules, including rules with respect to

- (i) subject to subsection (2), the manner of taking or casting votes,
  - (ii) the procedure to be followed before, during and after a vote,
  - (iii) the fixing of the date, place and time of voting,
  - (iv) the manner in which and the time at which a voters list is to be prepared, and
  - (v) the disposal of ballots;
- (b) appoint persons to act as returning officers for any vote required, conducted or supervised and vest in them whatever authority it considers necessary to ensure that the vote is properly conducted and that its rules are complied with;
  - (c) when it is required or permitted to do so under this Act, determine who is eligible to vote on any matter;
  - (d) investigate any complaint made to it concerning any vote taken pursuant to this Act;
  - (e) require an employer to place a suitable portion of the employer's premises or the premises where employees are working at the disposal of the Board for the purpose of taking a vote;
  - (f) direct all interested persons to refrain or desist from electioneering or from issuing any propaganda, or both, for any period of time prior to the date of a vote that the Board fixes.
- (5) The Board may delegate its powers under subsection (4)(b), (c), (d), (e) or (f) to an officer or to the Chair or a vice-chair.

1988 cL-1.2 s14

**Applications to the Board**

**16(1)** An employer, employers' organization, employee, trade union or other interested person may make a complaint in writing to the Board that there has been or is a failure to comply with any provision of this Act that is specified in the complaint.

**(2)** The Board may refuse to accept any complaint that is made more than 90 days after the complainant knew, or in the opinion of the Board ought to have known, of the action or circumstances giving rise to the complaint.

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

**(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:

- (a) appoint an officer to inquire into the complaint, reference or application and endeavour to effect a settlement within a reasonable time;
- (b) refer the matter to one or more members of the Board pursuant to section 11(1);
- (c) decide the matter itself after any hearings or inquiries that it considers necessary;
- (d) where the matter in issue is properly the subject of collective agreement arbitration, or some other proceeding authorized by statute, decline to proceed with the matter or proceed on any terms that the Board considers just;
- (e) where the Board is of the opinion that the matter is without merit, or is frivolous, trivial or vexatious, reject the matter summarily.

**(5)** The Board's powers under subsection (4)(a) may be delegated to the Chair, a vice-chair or an officer designated by the Board.

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

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

**(7.1)** The Board shall give priority to and expedite the resolution of any complaints before it in which it is alleged that an employee has been discharged from employment as a result of an unfair labour practice.

**(7.2)** The Board may decline to dismiss an application on a preliminary motion alleging a lack of a sufficient prima facie case, or insufficient particulars or evidence, if in the opinion of the Board, it would be inappropriate to dismiss the application prior to

the pre-hearing disclosure of relevant documents or other pre-hearing procedures.

**(7.3)** In exercising its discretion under subsection (7.2), the Board shall consider whether information relevant to the application is peculiarly within the knowledge of the respondent or other persons and not generally available.

**(8)** When the Board makes a decision with respect to a complaint, reference or application, the Board may by order or directive, for the purpose of ensuring the fulfilment of the purposes of this Act, in respect of any contravention of or failure to comply with any provision to which section 17 applies, in addition to or instead of any other order that the Board is authorized to make under that section, require an employer, employers' organization, employee, trade union or other person to do or refrain from doing anything that it is equitable to require the employer, employers' organization, employee, trade union or other person to do or refrain from doing in order to remedy or counteract any consequence of the contravention or failure to comply that is adverse to the fulfilment of the purposes of this Act.

RSA 2000 cL-1 s16;2017 c9 s108

### Remedies

**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),

- (a) may issue a directive or interim directive to the employer, employers' organization, employee, trade union or other person concerned to cease doing the act in respect of which the complaint was made;
- (b) may issue a directive to require the employer, employers' organization, employee, trade union or other person
  - (i) to reinstate any employee suspended or discharged contrary to this Act;
  - (ii) to pay to an employee or former employee suspended or discharged contrary to this Act compensation not exceeding a sum that, in the opinion of the Board, would have been paid by the employer to the employee, together with a sum not exceeding the amount of interest paid by the employee on money borrowed to support the

- employee and the employee's family, during the time the employee was so suspended or discharged;
- (iii) to reinstate or admit a person as a member of a trade union;
  - (iv) to rescind any disciplinary action taken or pecuniary or other penalty imposed contrary to this Act;
  - (v) to pay to a person compensation not exceeding a sum that, in the opinion of the Board, is equivalent to the pecuniary or other penalty imposed on a person contrary to this Act;
  - (vi) in respect of a contravention of section 148 or 149, to pay to an employee compensation not exceeding a sum that, in the opinion of the Board, is equivalent to the remuneration that would have been paid to the employee by the employer if the employer had not contravened that section;
- (c) in respect of a failure to comply with section 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;
  - (ii) revoke or refuse to revoke the certification of a bargaining agent;
  - (iii) revoke or refuse to revoke the bargaining rights of a bargaining agent voluntarily recognized;
  - (iv) register or refuse to register an employers' organization as an agent for collective bargaining on behalf of employers in a trade jurisdiction and sector in the construction industry;
  - (v) cancel or refuse to cancel the registration certificate of a registered employers' organization.



(2) Repealed 2017 c9 s109.

RSA 2000 cL-1 s17;2017 c9 s109

**Board orders, etc.**

**18(1)** An order that the Board makes may be issued on its behalf by the Chair or a vice-chair.

(2) An order purporting to be signed by the Chair or a vice-chair on behalf of the Board shall be received in any court as proof, in the absence of evidence to the contrary,

(a) of the order and its contents, and

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

without proof of the appointment or signature of the Chair or vice-chair.

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

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

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

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

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

1988 cL-1.2 s17

**Judicial review**

**19(1)** Subject to subsection (2), no decision, order, directive, declaration, ruling or proceeding of the Board shall be questioned or reviewed in any court by application for judicial review or

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

(2) A decision, order, directive, declaration, ruling or proceeding of the Board, except a decision made under section 145(3), may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the application is filed with the Court and served on the Board no later than 30 days after the date of the decision, order, directive, declaration, ruling or proceeding, or reasons in respect of it, whichever is later.

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

- (a) determine the issues to be resolved on the application,
- (b) limit the contents of the return from the Board to those materials necessary for the disposition of those issues, and
- (c) give directions to protect the confidentiality of the matters referred to in section 14(6).

RSA 2000 cL-1 s19;2009 c53 s92;2017 c9 s110

#### **Report by Board**

**20(1)** The Board shall at the end of each Government fiscal year make a report on the operations of the Board during that year to the Minister.

(2) On receipt of the report referred to in subsection (1) by the Minister, the Minister shall lay a copy of it before the Legislative Assembly if it is then sitting and if not, within 15 days after the commencement of the next sitting.

1994 c19 s1

## **Division 2 Employee and Employer Rights**

#### **Rights of employees and employers**

**21(1)** An employee has the right

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

- (2) An employer has the right
- (a) to be a member of an employers' organization and to participate in its lawful activities,
  - (b) to bargain collectively with the employer's employees, and
  - (c) to conduct collective bargaining through an employers' organization.

1988 cL-1.2 s19

**Discrimination, etc.**

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

- (a) has testified or otherwise participated in or may testify or otherwise participate in a proceeding authorized or permitted under a collective agreement or in a proceeding under this Act,
- (b) has made or is about to make a disclosure that the person may be required to make in a proceeding authorized or permitted under a collective agreement or in a proceeding under this Act, or
- (c) has made an application or filed a complaint under this Act.

1988 cL-1.2 s20

**Right of dismissed employee**

**23** No person ceases to be an employee within the meaning of this Act by reason only of the employee's dismissal contrary to this Act.

1988 cL-1.2 s21

### **Division 3 Trade Unions**

**Filing of constitution, etc., of trade union**

**24(1)** In accordance with the rules and procedures established by the Board, a trade union shall file with the Board

- (a) a copy of its constitution, bylaws or other constitutional documents, and
- (b) the names and addresses of its president, secretary, officers and other organizers and the names of its officers who are authorized to sign collective agreements.

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

1988 cL-1.2 s22

#### **Capacity of trade union**

**25(1)** For the purposes of this Act, a trade union is capable of

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

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

1988 cL-1.2 s23

#### **Suspension or expulsion from trade union**

**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
- (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.

1988 cL-1.2 s24

#### **Deduction of union dues**

**27(1)** An employee may, in writing, authorize the employer to deduct from wages due to the employee an amount payable by that employee to a trade union for

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

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

- (a) is effective only for the amount or the percentage of the wages specified in it, and
- (b) continues in force for at least 3 months and afterwards until revoked in writing by the employee.

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

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

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

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

(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.

RSA 2000 cL-1 s27;2017 c9 s111

#### **Fees for temporary card**

**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.

1988 cL-1.2 s26

**Employees to be union members**

**29(1)** Subject to subsection (2), nothing in this Act prevents a trade union from continuing an existing collective agreement or entering into a new collective agreement with an employer or employers' organization whereby all the employees or any unit of employees of the employer or of one or more employers represented by the employers' organization are required to be members of a trade union.

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

the Board may order that the provisions of a collective agreement of the type referred to in subsection (1) do not apply to the employee and that the employee is not required to join the trade union, to be or to continue to be a member of the trade union, or to pay any dues, fees or assessments to the trade union, if amounts equal to any initiation fees, dues or other assessments are paid by the employee to, or are remitted by the employer to, a charitable organization agreed on by the employee and the trade union.

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

1988 cL-1.2 s27

## **Division 4 Employers' Organizations**

**Capacity of employers' organization**

**30(1)** For the purposes of this Act, an employers' organization is capable of

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

(2) An employers' organization and its acts are not unlawful by reason only that one or more of its objects are in restraint of trade to the extent that those objects are necessary for carrying out its duties under this Act.

1988 cL-1.2 s28

#### **Suspension or expulsion from employers' organization**

**31** No employers' organization 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 employers' organization as a condition of acquiring or retaining membership in the employers' organization, unless that person has been

- (a) served personally or by double registered mail with specific charges in writing, and
- (b) given a reasonable time to prepare the person's defence.

1988 cL-1.2 s29

### **Division 5 Certification**

#### **Applications for certification**

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

1988 cL-1.2 s30

#### **Evidence in support of application for certification**

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

- (a) at least 40% of the employees in the unit applied for, by
  - (i) maintaining membership in good standing in the trade union, or
  - (ii) applying for membership in the trade union and paying on their own behalf a sum of not less than \$2 not longer than 6 months before the date the application for certification was made,

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

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

RSA 2000 cL-1 s33;2017 c9 s112

#### **Inquiry into certification application**

**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) subject to subsection (8), 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
- (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)** Subject to subsection (8), 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)** A representation vote is not required if, on the basis of the evidence submitted in support of the application and the Board's investigation in respect of that evidence, the Board is satisfied that at the time of the application for certification the trade union had the support, in the form set out in section 33(a), of more than 65% of the employees in the unit the Board determines to be an appropriate unit for collective bargaining under section 35(1).

**(9)** At any time after the Board begins assessing an application referred to in subsection (8), the trade union may elect to waive its right to certification under subsection (8) and to proceed with the application based on the results of a representation vote.

**(10)** If the Board determines under subsection (8) that the trade union lacks the necessary 65% support of the employees in the unit applied for or a reasonably similar unit found to be appropriate for collective bargaining, but has the 40% support required by subsection (5), or if there is a waiver under subsection (9), the Board shall within 3 working days of that determination or waiver, give notice of a representation vote.

**(11)** 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) or (10), any electioneering or issuing of propaganda that may influence employees in their voting decision.

**(12)** 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.

**(13)** 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.

RSA 2000 cL-1 s34;2017 c9 s113

**34.1** Repealed 2017 c9 s114.**Appropriate unit****35(1)** In processing an application for certification,

- (a) the Board may accept the unit applied for if, in the opinion of the Board, that unit is an appropriate unit for collective bargaining, or
- (b) the Board may
  - (i) alter or amend the description of the unit applied for,
  - (ii) include employees in or exclude employees from the unit applied for, or the unit as altered or amended, or
  - (iii) do any other things it considers appropriate,

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

**(2)** Certifications for firefighters shall be granted on the basis that all firefighters of an employer shall be included in one bargaining unit.

1988 cL-1.2 s33;1995 cM-2.5 s3

**Dependent contractors transitional****35.01(1)** If an application for certification is made for a unit consisting of, or including, dependent contractors, and the application meets the requirements of sections 32 to 34, the Board shall

- (a) if there is no other unit of employees certified by a bargaining agent with respect to the same employer, determine whether the unit applied for is appropriate for collective bargaining and, if so, certify that unit, or
- (b) if there is a unit of employees certified by a bargaining agent with respect to the same employer, determine whether inclusion of the dependent contractors in the existing unit would be more appropriate for collective bargaining and, if so, require that an application be made under section 45 to modify the description of the unit.

**(2)** If the Board has determined under subsection (1)(b) that modifications to the existing unit description would be more appropriate for collective bargaining and an application for modification is made, the Board must

- (a) determine what rights, privileges and duties have been acquired or are retained, and for that purpose the Board may make inquiries or direct that a representation vote be taken as it considers necessary or advisable,
  - (b) ensure that reasonable procedures have been developed to integrate dependent contractors and employees into a single bargaining unit,
  - (c) modify or restrict the operation or effect of a collective agreement in order to determine the seniority rights under it of employees or dependent contractors, and
  - (d) give directions that the Board considers necessary or advisable as to the interpretation, application or operation of a collective agreement affecting the employees and dependent contractors in a unit determined under this section to be appropriate for collective bargaining.
- (3)** On the coming into force of this section,
- (a) a person who meets the definition of a dependent contractor and is not covered by an existing collective agreement is only covered by the agreement in a circumstance described as follows:
    - (i) the Board makes a determination that the person or the person's position is a dependent contractor covered by the collective agreement, or
    - (ii) the parties to the collective agreement amend the agreement to address and resolve whether the person or the person's position is a dependent contractor under the collective agreement;
  - (b) a person who meets the definition of a dependent contractor is covered by an existing collective agreement if the agreement includes that person or the person's position using clear and explicit language.
- (4)** A party to an existing certificate, voluntary recognition agreement or collective agreement may apply to the Board for a declaration of whether the person or the person's position is a dependent contractor included within the scope of the existing certificate, voluntary recognition agreement or collective agreement.
- (5)** In determining a matter under subsection (4), the Board shall consider the requirements specified in subsections (1) and (2).

(6) If a question arises in an arbitration as to whether a person or the person's position is a dependent contractor covered by a collective agreement, the arbitrator, arbitration board or other body may refer the matter to the Board for a determination.

(7) An arbitrator, arbitration board or other body is not required to refer a matter under subsection (6) if the Board has previously made a determination as to whether the person or the person's position is a dependent contractor covered by the collective agreement or if the parties have specifically addressed the question by using clear and explicit language within their collective agreement.

2017 c9 s115

#### **Ambulance attendant bargaining units**

**35.1(1)** Notwithstanding any certificate to the contrary, a bargaining unit that includes ambulance attendants as defined in the *Emergency Health Services Act* who are represented by a bargaining agent shall not include any other employees, other than employees to whom Division 16 applies.

(2) Subsection (1) does not apply in respect of a region-wide functional bargaining unit established under section 162.1 and the regulations under that section.

2008 cE-6.6 s54;2008 c9 s4

#### **Joint application by trade unions**

**36(1)** Two or more trade unions that together claim to have been selected by at least 40% of the employees in a unit that the trade unions consider appropriate for collective bargaining may join in an application for certification as a bargaining agent.

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

1988 cL-1.2 s34

#### **Timeliness of application for certification**

**37(1)** No application for certification shall be made without the Board's consent

- (a) until at least 60 days after the applicant has complied with section 24(1)(a), or
- (b) while a lawful strike or lawful lockout is in effect.

(2) An application for certification may be made,

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

**(3)** Notwithstanding subsection (2), no application shall be made under clause (e)(i) of that subsection unless the application is made at least 10 months prior to the end of the term of the collective agreement.

1988 cL-1.2 s35;1989 c17 s11

#### **Prohibitions on certification**

**38(1)** A trade union shall not be certified as a bargaining agent if its administration, management or policy is, in the opinion of the Board,

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

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

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

1988 cL-1.2 s36

### **Certification**

**39** When the Board is satisfied with respect to the matters referred to in section 34(2) and satisfied, after considering any other relevant matter, that the trade union should be certified, the Board shall grant a certificate to the applicant trade union naming the employer and describing the unit in respect of which the trade union is certified as the bargaining agent.

RSA 2000 cL-1 s39;2017 c9 s116

### **Effect of certification**

**40(1)** When a trade union becomes a certified bargaining agent, it

- (a) has exclusive authority to bargain collectively on behalf of the employees in the unit for which it is certified and to bind them by a collective agreement, and
- (b) immediately replaces any other bargaining agent for employees in the unit for which it is certified.

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

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

- (a) becomes a party to the collective agreement in place of the bargaining agent that was a party to the collective agreement in respect of the employees in the unit, and
- (b) may, insofar as the collective agreement applies to the employees and notwithstanding anything contained in the collective agreement, terminate the agreement at any time by giving the employer at least 2 months' notice in writing.

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

1988 cL-1.2 s38

#### **Consolidation of certificates**

**41(1)** One or more certified bargaining agents may apply to the Board for the consolidation of certificates of one or more bargaining agents into a consolidated certificate.

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

- (a) naming the trade union or trade unions as the certified bargaining agent or agents,
- (b) naming the employer in respect of which the trade union or trade unions are certified as bargaining agent or agents, and
- (c) describing the unit in respect of which the trade union or trade unions are certified as bargaining agent or agents.

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

1988 cL-1.2 s39

## **Division 6 Voluntary Recognition**

#### **Voluntary recognition**

**42** Subject to this Act, an employer has the right to bargain collectively with a voluntarily recognized trade union acting on behalf of the employer's employees or a unit of them.

1988 cL-1.2 s40

#### **Collective bargaining with voluntarily recognized trade union**

**43(1)** An employer who is a party to or bound by a collective agreement entered into as a result of voluntary collective bargaining, if served with a notice to bargain collectively with a trade union in accordance with section 59(2), may not refuse to bargain collectively in accordance with the notice unless, at least 6 months prior to the expiry date set out in the collective agreement, the employer served the trade union with notice of the employer's intention to terminate the employer's recognition of the trade union and to refuse to bargain collectively.

(2) If a trade union receives a notice under subsection (1), the trade union may apply to the Board to become certified for the unit to which the notice relates, notwithstanding section 37(2)(d) or (e).

1988 cL-1.2 s41

#### **Extension of certificate**

**44** Where a trade union

- (a) is the certified bargaining agent on behalf of a unit of employees,
- (b) has bargained a collective agreement on behalf of any other employees of the same employer, and
- (c) is served with a notice of intention to terminate recognition pursuant to section 43 in respect of those other employees,

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

1988 cL-1.2 s42

### **Division 7 Modification of Bargaining Rights**

#### **Modification of certification of a bargaining agent**

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

- (a) the former certificate no longer appropriately describes the circumstances of collective bargaining between the parties,
- (b) the modification is not such as may call into question the union's majority support within the bargaining unit, and
- (c) it is otherwise appropriate to make the modification.

1988 cL-1.2 s43

#### **Effect of sale of business**

**46(1)** When a business or undertaking or part of it is sold, leased, transferred or merged with another business or undertaking or part of it, or otherwise disposed of so that the control, management or supervision of it passes to the purchaser, lessee, transferee or person acquiring it, that purchaser, lessee, transferee or person is, where there have been proceedings under this Act, bound by those proceedings and the proceedings shall continue as if no change had occurred, and



- (a) if a trade union is certified, the certification remains in effect and applies to the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it, and
- (b) if a collective agreement is in force, the collective agreement binds the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it as if the collective agreement had been signed by that person.

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

- (a) the Board may determine and declare which trade union is or which trade unions shall be the bargaining agent or agents for a unit or units of employees of the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it,
- (b) if a trade union or trade unions are certified with respect to the business or undertaking or part of it, or with respect to the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it, the Board may amend or revoke any certificate and determine and declare that one or more certificates or certificates as amended are in effect or remain in effect and apply to the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it,
- (c) if one or more collective agreements are in force with respect to the business or undertaking or part of it, or with respect to the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it, the Board may cancel any of those agreements or amend any of those agreements with respect to the employees covered by the agreements and determine and declare that one or more collective agreements or collective agreements as amended are in effect or remain in effect and bind the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it, and
- (d) if there are proceedings under this Act before the date of sale, lease, transfer or other disposition of the business or undertaking or part of it, the Board may determine and declare whether those proceedings are binding on or the

extent to which those proceedings are binding on the purchaser, lessee, transferee or person acquiring the business or undertaking or part of it.

1988 cL-1.2 s44

### **Spin-offs**

**47(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, the Board shall make a declaration under subsection (1) with respect to those corporations, partnerships, persons or associations 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)** This section does not apply with respect to employers engaged in the construction industry in respect of work in that industry.

1988 cL-1.2 s45

### **Governing bodies**

**48(1)** In this section, “governing body” means

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

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

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

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

RSA 2000 cL-1 s48;2003 c6 s3

#### **Successor trade union**

**49(1)** When a trade union claims that, by reason of a merger or amalgamation or a transfer of jurisdiction of a trade union, it is the successor of a trade union that at the time of the merger, amalgamation or transfer of jurisdiction was the bargaining agent for a unit of employees of an employer, the Board in any proceedings before it or on the application of any person or trade union concerned may declare that the successor trade union has acquired the rights, privileges and duties under this Act of its predecessor.

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

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

1988 cL-1.2 s47

## Division 8 Revocation of Bargaining Rights

### Definition

**50** In this Division, “bargaining rights” means those rights held by a trade union with respect to a unit of employees of an employer,

- (a) arising out of a certification granted by the Board, or
- (b) arising as a result of the employer’s having voluntarily entered into a collective agreement with the trade union, and any subsisting obligation to bargain with the trade union arising as a result of any notice to bargain given pursuant to this Act or the collective agreement, unless the employer has given notice of the employer’s intention to terminate recognition pursuant to section 43(1), and only insofar as the dispute arising out of any notice to bargain continues.

1988 cL-1.2 s48

### Application for revocation of bargaining rights

**51(1)** An application to revoke bargaining rights may be made by the trade union, the employees within the unit, or the employer or former employer to whom the bargaining rights relate.

**(2)** If an application for revocation of bargaining rights is made by the employees within the unit, the application shall be supported by evidence, in a form satisfactory to the Board, that at least 40% of the employees within the unit have indicated in writing their support for the revocation of the bargaining rights of the trade union.

1988 cL-1.2 s49

### Timeliness of application for revocation

**52(1)** No application for revocation of bargaining rights may be made without the Board’s consent while a lawful strike or lawful lockout is in effect.

**(2)** An application for revocation of bargaining rights may be made by the trade union at any time when there is no collective agreement in effect.

**(3)** An application for revocation of bargaining rights may be made by the employees in the unit

- (a) if no collective agreement is in force in respect of any of the employees in the unit, at any time after the expiration of 10 months from the date of the certification of the trade union, and at any time if the trade union is not certified,

- (b) if the certification of a bargaining agent in respect of any of the employees in the unit is questioned or reviewed by the Court, at any time after the expiration of 10 months from the date of the final disposition of the question or review, unless the Court quashes the decision of the Board to certify the bargaining agent,
- (c) if a collective agreement for a term of 2 years or less is in force in respect of any of the employees in the unit, at any time in the 2 months immediately preceding the end of the term of the collective agreement, or
- (d) if a collective agreement for a term of more than 2 years is in force in respect of any of the employees in the unit, at any time
  - (i) in the 11th or 12th month of the 2nd or any subsequent year of the term, or
  - (ii) in the 2 months immediately preceding the end of the term.

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

(4.1) and (4.2) Repealed 2017 c9 s117.

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

- (a) after the date of certification, if no collective agreement has been entered into affecting the employer or former employer and the bargaining agent, or
- (b) after the first date fixed for the termination of the collective agreement, if a collective agreement has been entered into affecting the employer or former employer and the trade union.

RSA 2000 cL-1 s52;2008 c9 s5;2017 c9 s117

#### **Inquiry into revocation application**

**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 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 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.

RSA 2000 cL-1 s53;2017 c9 s118

**53.1** Repealed 2017 c9 s119.

### **Revocation of bargaining rights**

**54(1)** When the Board is satisfied with respect to the matters referred to in section 53(2) and satisfied, after considering any other relevant matter, that the bargaining rights of the trade union should be revoked, the Board shall grant a declaration that the trade union's bargaining rights are revoked, and revoke any certification.

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

- (a) the employer is not required to bargain collectively with the trade union,
- (b) any collective agreement in effect at the time of the revocation becomes void and of no effect with respect to that employer and that employer's employees in the unit represented by that trade union, and
- (c) the trade union shall not negotiate or enter into a collective agreement or apply for certification for the same or substantially the same unit with the employer to whom the bargaining rights relate for a period of 6 months from the date of the revocation of the bargaining rights.

RSA 2000 cL-1 s54;2017 c9 s120

### **Revocation without application**

**55(1)** Notwithstanding sections 51 to 54(1), the Board may at any time give notice of its intention to revoke the bargaining rights of a trade union to the trade union and the employer or employers' organization affected by the proposed revocation.

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

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

1988 cL-1.2 s53

## **Division 9**

### **General Provisions on Certification and Voluntary Recognition**

#### **Continuation of collective agreement not a bar to certain applications**

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

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

1988 cL-1.2 s54

#### **Overriding provision concerning application**

**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.

RSA 2000 cL-1 s57;2017 c9 s121



**Representation vote**

**58(1)** A representation vote shall be decided on the basis of a majority of the ballots cast by employees in the bargaining unit.

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

1988 cL-1.2 s56

**Division 9.1  
Post-secondary  
Academic Bargaining****Interpretation**

**58.1(1)** In this Division, "board of a public post-secondary institution" means

- (a) the board of governors of a university,
- (b) the board of governors of a public college, and
- (c) the board of governors of a technical institute.

(2) Definitions in section 1 of the *Post-secondary Learning Act* of terms used in this Division apply to this Division.

(3) An agreement entered into under section 87 or 96 of the *Post-secondary Learning Act* before the Bill to enact *An Act to Enhance Post-secondary Academic Bargaining* receives Royal Assent is a collective agreement for the purposes of this Act.

(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

- (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.

2017 c4 s1

**Application**

**58.2(1)** Divisions 4 to 9 and section 156 do not apply

- (a) with respect to the board of a public post-secondary institution while it is acting as the employer of the academic staff members of the public post-secondary institution or with respect to those academic staff members,
- (b) with respect to the board of governors of a university while it is acting as the employer of the academically employed graduate students at the university or with respect to those graduate students, or
- (c) with respect to the board of governors of a university while it is acting as the employer of postdoctoral fellows of the university or with respect to those postdoctoral fellows.

(2) Notwithstanding subsection (1), Divisions 4 to 9 apply effective July 1, 2022 unless a later date is determined by the Lieutenant Governor in Council after the Minister has consulted with affected parties.

2017 c4 s1

#### **Boards, academic staff and bargaining agents**

**58.3(1)** For the purposes of this Act,

- (a) the board of a public post-secondary institution is an employer while it is acting as the employer of its academic staff,
- (b) the academic staff members of a public post-secondary institution are employees of the board of the public post-secondary institution, and
- (c) the academic staff association of a public post-secondary institution is, subject to the future effects of the application of Divisions 4 to 9 under section 58.2(2), the bargaining agent for the academic staff of the public post-secondary institution and has exclusive authority to bargain collectively on behalf of the academic staff and to bind them by a collective agreement.

(2) The academic staff association of a public post-secondary institution is deemed to be a trade union for the purposes of acting as bargaining agent for the public post-secondary institution's academic staff members.

2017 c4 s1

#### **Boards, graduate students and bargaining agents**

**58.4(1)** For the purposes of this Act,

- (a) the board of governors of a university is an employer while it is acting as the employer of its academically employed graduate students,
- (b) the academically employed graduate students of a university are employees of the board of governors of the university, and
- (c) the graduate students association of a university is, subject to the future effects of the application of Divisions 4 to 9 under section 58.2(2), the bargaining agent for the academically employed graduate students of the university and has exclusive authority to bargain collectively on behalf of the academically employed graduate students and to bind them by a collective agreement.

(2) The graduate students association of a university is deemed for the purposes of this Act to be a trade union for the purposes of acting as bargaining agent for the academically employed graduate students at the university.

2017 c4 s1

#### **Boards, postdoctoral fellows and bargaining agents**

**58.5(1)** For the purposes of this Act,

- (a) the board of governors of a university is an employer while it is acting as the employer of its postdoctoral fellows,
- (b) the postdoctoral fellows of a university are employees of the board of governors of the university, and
- (c) the postdoctoral fellows association of a university is, subject to the future effects of the application of Divisions 4 to 9 under section 58.2(2), the bargaining agent for the postdoctoral fellows of the university and has exclusive authority to bargain collectively on behalf of the postdoctoral fellows and to bind them by a collective agreement.

(2) The postdoctoral fellows association of a university is deemed for the purposes of this Act to be a trade union for the purposes of acting as bargaining agent for the postdoctoral fellows of the university.

2017 c4 s1

#### **Application respecting academic staff designations**

**58.6(1)** A person or bargaining agent affected by a designation or change in designation made under section 5(2), 42(2) or 60(2) of the *Post-secondary Learning Act*, or a failure to designate, may

apply to the Labour Relations Board to decide whether a category of employees or individual employees are academic staff members.

**(2)** On considering an application under subsection (1), the Labour Relations Board may decide whether a category of employees or individual employees are academic staff members, and in deciding may take into account any of the following:

- (a) the history of, and the employer's policies concerning, designations within the public post-secondary institution;
- (b) the results of any consultation referred to in section 5(2), 42(2) or 60(2) of the *Post-secondary Learning Act*;
- (c) the potential for significant conflict with the managerial responsibilities of the category of employees or individual employees, in the context of a collegial governance structure;
- (d) any arrangements made for any transition in status of categories of employees or individual employees;
- (e) the submissions and interests of any other bargaining agent representing employees of the public post-secondary institution affected by the designation;
- (f) any other factor the Board considers relevant.

**(3)** A decision of the Board under subsection (2) is final and binding.

**(4)** This section applies whether a designation or change in designation or a failure to designate by the board of governors occurred before or after the coming into force of this section.

2017 c4 s1

#### **Transitional provisions**

**58.7(1)** On the coming into force of this section, collective bargaining that commenced under an agreement entered into under section 87 or 96 of the *Post-secondary Learning Act* continues subject to the *Labour Relations Code*.

**(2)** If before the day the Bill to enact *An Act to Enhance Post-secondary Academic Bargaining* receives first reading a dispute that arises during the negotiation of an agreement is referred to binding arbitration pursuant to an agreement under section 87 or 96 of the *Post-secondary Learning Act* or referred to binding arbitration under section 88 of that Act, the arbitration continues as the dispute resolution process for that dispute unless the parties agree to terminate the arbitration.

(3) If, on or after the day on which the Bill to enact *An Act to Enhance Post-secondary Academic Bargaining* receives first reading but before it receives Royal Assent, a dispute that arises during the negotiation of an agreement is referred to binding arbitration pursuant to an agreement under section 87 or 96 of the *Post-secondary Learning Act* or referred to binding arbitration under section 88 of that Act, the arbitration is terminated and any award made is void.

(4) Effective on the day on which the Bill to enact *An Act to Enhance Post-secondary Academic Bargaining* receives first reading, a provision in an agreement under section 87 or 96 of the *Post-secondary Learning Act* that requires disputes that arise during the negotiation of a future agreement to be resolved by binding arbitration is unenforceable.

(5) An agreement under section 87 or 96 of the *Post-secondary Learning Act* that operates for an unspecified term is deemed, despite section 129 of this Act, to provide for its operation for a term of 3 years beginning on the date the Bill to enact *An Act to Enhance Post-secondary Academic Bargaining* receives Royal Assent or for a shorter period agreed on by the parties.

(6) For greater certainty, nothing in this section prevents the parties from referring matters in dispute to voluntary arbitration under section 93.

(7) A party to an agreement affected by this section may apply to the Board for a determination respecting the application of this section, and the Board's decision is final and binding.

2017 c4 s1

## Division 10 Collective Bargaining

### Notice to commence collective bargaining

**59(1)** When a certified bargaining agent, an employer or an employers' organization wishes to commence collective bargaining,

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

a notice to commence collective bargaining.

(2) Subject to section 43(1), when a collective agreement is in effect, either party to the collective agreement may, not less than 60 days and not more than 120 days preceding the expiry of the term of the collective agreement or within any longer period that may be provided for in the collective agreement, by notice in writing, require the other party to the collective agreement to commence collective bargaining.

1988 cL-1.2 s57

### **Commencement of bargaining**

**60(1)** When a notice to commence collective bargaining has been served under this Division, the bargaining agent and the employer or employers' organization, not more than 30 days after notice is served, shall

- (a) meet and commence, or cause authorized representatives to meet and commence, to bargain collectively in good faith, and
- (b) make every reasonable effort to enter into a collective agreement.

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

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

1988 cL-1.2 s58

### **Representatives for collective bargaining**

**61(1)** A notice to commence collective bargaining must contain or be accompanied with a statement showing the name and address of the person or persons resident in Alberta who are authorized to do all of the following on behalf of the employer, employers' organization or bargaining agent:

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

(2) When an employer, employers' organization or bargaining agent is served with a notice to commence collective bargaining, it shall forthwith serve on the other party to the collective bargaining

a statement showing the name and address of the person or persons resident in Alberta who are authorized to do the things referred to in subsection (1) on behalf of the employer, employers' organization or bargaining agent.

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

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

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

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

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

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

1988 cL-1.2 s59

#### **Authorization of employers' organization**

**62(1)** When an employers' organization serves notice to commence collective bargaining, the notice must contain or be accompanied with

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

(2) When an employers' organization is served with a notice to commence collective bargaining, it shall, within 10 days after the day on which it receives the notice, serve on the bargaining agent the lists and authorizations referred to in subsection (1).

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

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

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

- (a) the bargaining agent and the employers' organization agree to add the employer to the list, and
- (b) an authorization of the employer is served forthwith on the bargaining agent and on the Director.

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

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

- (a) a collective agreement has been entered into between the employers' organization and the bargaining agent, or
- (b) a lawful strike or lawful lockout commences in accordance with this Act,

whichever first occurs.

1988 cL-1.2 s60

#### **Service during collective bargaining**

**63(1)** Subject to this Act and any rules made by the Board under section 12(2)(g), anything that is required or permitted to be served under this Division or Divisions 11 to 13 is deemed to be properly served if it is served,

- (a) in the case of service on an individual,
  - (i) personally or by leaving it for the individual at the individual's last or most usual place of abode with some person who appears to be at least 18 years old, or



- (ii) by sending it to the individual by registered or certified mail at the individual's last known postal address;
  - (b) in the case of service on a corporation,
    - (i) personally on a director, manager or officer of the corporation or by leaving it for the director, manager or officer at the director's, manager's or officer's address with some person who appears to be at least 18 years old, or
    - (ii) by leaving it at or by sending it by registered or certified mail to the registered office of a corporation or to the office of the attorney of an extra-provincial corporation;
  - (c) in the case of service on a trade union or employers' organization,
    - (i) personally on the president, secretary or an officer of the trade union or employers' organization or by leaving it at the president's, secretary's or officer's address with some person who appears to be at least 18 years old, or
    - (ii) by sending it by registered or certified mail to the address of the president, secretary or an officer of the trade union or employers' organization;
  - (d) in the case of service on an employer, employers' organization or trade union that is represented by a bargaining committee,
    - (i) personally on the chair or any member of the bargaining committee or by leaving it at the chair's or member's address with a person who appears to be at least 18 years old, or
    - (ii) by sending it by registered or certified mail to the address of the chair or any member of the bargaining committee.
- (2)** Service on the chair or a member of the bargaining committee of an employer or employers' organization is also good service on the employers represented by that bargaining committee.
- (3)** Service on the chair or a member of the bargaining committee of a trade union is also good service on the trade union and on the employees represented by that trade union.
- (4)** If it is necessary to prove service of anything under this section,

- (a) if service is effected personally, the date on which it is served is the date of service,
- (b) if service is effected by registered mail or certified mail, service of it is deemed to have occurred 7 days after the date of mailing, and
- (c) if service is effected by leaving it with a person, service of it is deemed to have been made on the date it was so left.

1988 cL-1.2 s61

## **Division 11**

### **Mediation and Enhanced Mediation**

#### **Informal mediation**

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

1988 cL-1.2 s62

#### **Appointment of mediator**

**65(1)** Any time after a notice to commence collective bargaining is served under section 59, whether or not a mediator has been made available under section 64,

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

to assist the parties in resolving the dispute.

**(2)** Subject to subsection (2.1), the Director

- (a) may appoint a mediator if the Director receives a request under subsection (1)(a), and
- (b) shall appoint a mediator if the Director receives a request under subsection (1)(b).

**(2.1)** If the parties to the dispute are parties to which Division 15.1 applies, the Director may appoint a mediator only if

- (a) the parties have an essential services agreement that has been accepted for filing in accordance with section 95.44,
- (b) the parties have been granted an exemption under section 95.21,

- (c) the Commissioner has made a declaration under section 95.44(7), or
  - (d) the Commissioner consents to a mediator being appointed.
- (3)** The mediator shall, in any manner that the mediator considers fit, inquire into the dispute and endeavour to effect a settlement.
- (4)** During the mediator's inquiry the mediator shall
- (a) hear any representations made to the mediator by the parties to the dispute,
  - (b) mediate between the parties to the dispute, and
  - (c) encourage the parties to the dispute to effect a settlement.
- (5)** If no settlement is effected between the parties within 14 days after the later of
- (a) the date of the appointment of the mediator under subsection (2), or
  - (b) if a vote is conducted on an offer under section 69, the date on which the parties are notified of the results of the vote
- or within any longer period agreed on by the parties to the dispute or fixed by the Director, the mediator shall do either of the things referred to in subsection (6).
- (6)** If subsection (5) applies, the mediator shall
- (a) recommend terms for settlement to the parties for them to accept or reject within a time fixed by the mediator, or
  - (b) notify the parties that the mediator does not intend to make a recommendation under clause (a).
- (7)** There shall be a cooling-off period of 14 days from the latest of
- (a) the date on which the mediator notifies the parties that the mediator does not intend to recommend terms of settlement,
  - (b) the date fixed by the mediator for acceptance or rejection of the recommendations of the mediator under subsection (6)(a), and
  - (c) if a vote is requested under section 66, the date on which the parties are notified of the results of the vote.

RSA 2000 cL-1 s65;2016 c10 s5

**Collective agreement after recommendations**

**66(1)** If the parties to a dispute accept the recommendations of the mediator under section 65(6)(a), the parties shall notify the mediator accordingly and the recommendations are binding on the parties and shall be included in the terms of a collective agreement.

**(2)** If a party rejects the recommendations of the mediator under section 65(6)(a), the party shall notify the mediator accordingly.

**(3)** If one party to the dispute accepts the recommendations of the mediator under section 65(6)(a) within the time fixed by the mediator under section 65(6)(a), the party may request the Board to conduct a vote on the acceptance or rejection of the recommendations by the other party in accordance with Division 12.

**(4)** A party to a dispute that accepts the recommendations made by the mediator pursuant to section 65(6)(a) ceases to be bound by the acceptance

- (a) if a vote of the other party is requested, at the time a vote rejecting the proposal is announced under section 70, or
- (b) if no vote is requested, at the expiry of the time fixed for the other party's acceptance under section 65(6)(a)

unless the other party also accepts the terms of settlement.

1988 cL-1.2 s64

**Questions on recommendations**

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

1988 cL-1.2 s65

**Division 11.1  
Marshalling of Proceedings****Marshalling of proceedings**

**67.1(1)** In this section, "proceeding" means any proceeding before the Board, before an arbitrator, arbitration board or other body arising from a collective agreement required to be filed under this Act, or before any other adjudicative body under an enactment dealing with employment matters other than the following:

- (a) a complaint, inquiry, hearing or other disciplinary proceeding of a professional association pursuant to an enactment;
- (b) a proceeding under the *Provincial Offences Procedure Act*;

- (c) a proceeding under the *Ombudsman Act*.
- (2)** Any party to a proceeding may apply to the Board for an order to marshal any outstanding or anticipated proceedings.
- (3)** The purpose of a marshalling order is
- (a) to avoid duplicate or unnecessary proceedings,
  - (b) to ensure that any necessary preliminary issues are dealt with first and in the appropriate forum,
  - (c) to avoid the litigation or re-litigation of matters already decided in another forum or that can reasonably and fairly be determined in another forum, and
  - (d) where a trade union that is subject to a duty of fair representation is involved in one or more of the proceedings, to clarify the extent of the trade union's duty of fair representation in relation to the various proceedings in issue as they proceed.
- (4)** This section applies only to proceedings that arise out of common circumstances, including a common set of legal issues or factual circumstances, or both, involving a workplace that is subject to a bargaining relationship between a bargaining agent and an employer or employers' organization.
- (5)** A party applying for a marshalling order shall provide the Board with the following:
- (a) a concise description of the common circumstances giving rise to the proceedings that are the subject of the application;
  - (b) details of the proceedings that are the subject of the application, including a copy of any initiating and responding documents with respect to those proceedings;
  - (c) a list of any other persons or parties that may be affected by the application;
  - (d) a description of the relief sought;
  - (e) any other information requested by the Board.
- (6)** On receipt of an application under this section, the Board shall forthwith notify the affected persons or parties that an application has been made under this section and, if one or more of the proceedings are governed by another enactment, the adjudicative body under that enactment.

(7) If one of the proceedings that is the subject of the application is under the *Alberta Human Rights Act*, the Board shall notify the director under that Act.

(8) On receipt of an application, the Chair shall assign the matter to the Chair or a vice-chair to hold an expeditious hearing.

(9) The Chair or vice-chair shall on notice to the affected parties or persons hold a hearing for the purpose of determining the following:

- (a) whether and how subsection (3) applies to the proceedings in issue;
- (b) whether there are issues that need to be determined about the scope of a bargaining agent's duty of fair representation if one or more individual employees wish to pursue matters in a forum other than grievance arbitration;
- (c) if a bargaining agent is pursuing an issue through arbitration on behalf of an employee that raises issues or factual matters that may also be the subject of additional proceedings, that
  - (i) the employee understands that a determination in one proceeding may preclude the matter being dealt with in another proceeding;
  - (ii) the bargaining agent has sufficient instructions from the employee to undertake carriage of the proceeding and, if appropriate, to resolve the matters in issue in a manner that fairly represents the employee's interests;
- (d) whether an employee's right to fair representation with respect to any human rights issue, including any duty to accommodate, has been, or will be, appropriately investigated and protected if the matter is to proceed by arbitration rather than through a complaint under the *Alberta Human Rights Act*.

(10) At or after the hearing, the Chair or vice-chair may grant an order that may include any one or more of the following:

- (a) a direction that grievances or arbitrations arising out of common circumstances be consolidated and heard in one proceeding;
- (b) where an issue that is the subject of one or more proceedings includes a complaint or other matter before the Board, directions as to which should proceed first or in what forum the issues should be decided, so as to best protect the

interests involved while avoiding unnecessary duplicative proceedings;

- (c) conditions under which proceedings will continue, including an order or schedule of proceedings;
- (d) a stay of any proceeding that will be effectively determined by an arbitration or other proceeding;
- (e) any further directions that the parties may agree on or that, in the opinion of the Board, are just and equitable in the circumstances.

**(11)** The Chair or vice-chair, in conducting proceedings and making any orders under this section, shall take into account

- (a) that the purpose of the proceedings is to enhance the fairness, cost and efficiency of the proceedings in issue while ensuring that the interests of the parties are protected;
- (b) that the process under this section should be expeditious and should not be a source of overall delay in the resolution of the proceedings in issue;
- (c) that while the director under the *Alberta Human Rights Act* is not, in a proceeding under section 22 of that Act, subject to any direction given by the Board, the director may be informed or influenced by the Board's proceedings.

**(12)** Pending the director's decision in relation to any complaint under the *Alberta Human Rights Act*, if it is appropriate to do so, the Board may defer its decision, or give any necessary interim order, under this section.

2017 c9 s122

## **Division 12 Votes on Proposals**

### **Vote on mediator's recommendations**

**68(1)** When the Board receives a request from a party to conduct a vote on a mediator's recommendations under section 66(3), it shall conduct a vote or poll in accordance with this Division.

**(2)** If the mediator has been requested to consider and decide a question under section 67, the Board may delay the conduct of the vote or poll under section 66(3) until the mediator decides the question.

1988 cL-1.2 s66

**Vote on offer**

**69(1)** At any time after the exchange of proposals under section 60, either party to the collective bargaining may apply to the Board to conduct a vote as to the acceptance or rejection of its most recent offer presented to the other party.

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

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

1988 cL-1.2 s67

**Conduct of vote**

**70(1)** On receipt of a request under section 66(3) or 69(1), the Board shall

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

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

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

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

**(4)** Notwithstanding subsection (3), if the ratification procedure referred to in section 61(6) for an employers' organization requires



ratification by the employers on a weighted vote system, a vote for acceptance or rejection of the recommendations of the mediator or the offer, as the case may be, by the employers shall be determined on the basis of that weighted vote system.

1988 cL-1.2 s68

### **Division 13 Strikes and Lockouts**

#### **No strike unless permitted**

**71** No employees, no bargaining agent and no person acting on their behalf shall strike or cause a strike or threaten to strike or to cause a strike unless that strike is permitted by this Act.

1988 cL-1.2 s69

#### **No lockout unless permitted**

**72** No employer, no employers' organization and no person acting on their behalf shall lock out or cause a lockout or threaten to lock out or to cause a lockout unless that lockout is permitted by this Act.

1988 cL-1.2 s70

#### **Conditions under which strike permitted**

**73** An employee, bargaining agent or person acting on behalf of a bargaining agent is entitled to strike or cause a strike if

- (a) no collective agreement is in force, other than as a result of section 130,
- (a.1) in the case of an employee and bargaining agent referred to in section 95.2(a) (b), (d), (e), (f), (g), (h) or (i),
  - (i) an essential services agreement has been accepted for filing in accordance with section 95.44 or an exemption has been granted under section 95.21, and
  - (ii) a declaration has not been made under section 95.44(7),
- (b) a strike vote was held under this Division
  - (i) that remains current,
  - (ii) for which the results have been filed with the Board, and
  - (iii) that resulted in a majority in favour of a strike,
- (c) strike notice is given in accordance with this Division,
- (d) the strike commences on the day and at the time and location specified in the strike notice or, if an amendment to

the strike notice is agreed to and is permitted under this Division, on the day and at the time and location specified in the amended strike notice, and

- (e) in a case where a disputes inquiry board is established before the commencement of the strike, the time limits referred to in section 105(3) have expired.

RSA 2000 cL-1 s73;2016 c10 s6;2017 c9 s123

#### **Conditions under which lockout permitted**

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

- (a) no collective agreement is in force, other than as a result of section 130,
- (a.1) in the case of an employer referred to in section 95.2(a) (b), (d), (e), (f), (g), (h) or (i),
  - (i) an essential services agreement has been accepted for filing in accordance with section 95.44 or an exemption has been granted under section 95.21, and
  - (ii) a declaration has not been made under section 95.44(7),
- (b) a lockout vote was held under this Division
  - (i) that remains current,
  - (ii) for which the results have been filed with the Board, and
  - (iii) that resulted in a majority in favour of a lockout,
- (c) lockout notice is given in accordance with this Division,
- (d) the lockout commences on the day and at the time and location specified in the lockout notice or, if an amendment to the lockout notice is agreed to and is permitted under this Division, on the day and at the time and location specified in the amended lockout notice, and
- (e) in a case where a disputes inquiry board is established before the commencement of the lockout, the time limits referred to in section 105(3) have expired.

RSA 2000 cL-1 s74;2016 c10 s7;2017 c9 s124

#### **Application to Board to supervise strike or lockout vote**

**75(1)** A bargaining agent that is a party to a dispute may apply to the Board to supervise a strike vote, and an employer or employers'

organization that is a party to a dispute may apply to the Board to supervise a lockout vote.

**(2)** No strike or lockout vote shall be conducted under supervision while a collective agreement is in force unless that agreement is in force pursuant to section 130.

**(2.1)** In anticipation that a supervised vote will be required, an application under subsection (1) may be made, and preparations undertaken for the vote, before a time referred to in subsection (3).

**(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.

RSA 2000 cL-1 s75;2017 c9 s125

#### **Supervision of strike or lockout vote**

**76(1)** On receipt of an application under section 75 to supervise a strike vote, the Board shall,

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

on whether the employees wish to strike.

**(2)** On receipt of an application under section 75 to supervise a lockout vote, the Board shall

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

on whether the employer or employers wish to lock out.

**(3)** The results of a strike vote or a lockout vote must be determined on the basis of a majority of those persons who actually vote.

**(4)** If a question arises with respect to a strike vote or lockout vote, it shall be referred to the Board, whose decision is final and binding.

(5) In this section,

- (a) “employees of the employer affected by the dispute” or “employees of the employers affected by the dispute”
  - (i) means employees of the employer or employers, as the case may be, employed in the unit affected by the dispute at any time during the 60 days preceding the date, or the last date if there is more than one, fixed for taking the strike vote, but
  - (ii) does not include employees who are engaged in a project that is the subject of a collective agreement entered into under Part 3, Division 8;
- (b) “employers affected by the dispute” means employers affected by the dispute who have employed any employees referred to in clause (a) entitled to vote at a vote under subsection (1) at any time during the 60 days preceding the date, or the last date if there is more than one, fixed for taking the lockout vote.

1988 cL-1.2 s74;1990 c29 s14

#### **Expiry of vote and right to strike or lock out**

**77(1)** If no strike or lockout occurs within 120 days after the day on which the strike vote or lockout vote was conducted, the strike or lockout vote is deemed to be void and no person shall strike or lock out or cause a strike or lockout unless a new strike vote or lockout vote has been conducted in accordance with this Division.

**(2)** Notwithstanding subsection (1), no strike or lockout vote may be taken with respect to a dispute after the expiry of 2 years from the end of the cooling-off period referred to in section 65(7).

**(3)** If a strike or lockout vote is prohibited under subsection (2), the dispute is deemed to no longer exist.

1988 cL-1.2 s75

#### **Service of strike or lockout notice**

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

- (a) personally serves a written strike notice on the employer or employers’ organization that is a party to the dispute giving at least 72 hours’ notice of the date, time and initial location at which the strike will commence, and
- (b) forthwith after service of the notice referred to in clause (a), notifies the mediator appointed under section 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
- (a) personally serves a written lockout notice on the bargaining agent that is a party to the dispute giving at least 72 hours' notice of the date, time and initial location at which the lockout will commence, and
  - (b) forthwith after service of the notice referred to in clause (a), notifies the mediator appointed under section 65, giving the mediator notice of the date, time and initial location at which the lockout will commence.

1988 cL-1.2 s76

**Strike or lockout notice extended by agreement**

**79(1)** If the parties to a dispute agree in writing to do so, a strike notice or a lockout notice may be amended one or more times after it has been served by changing the date, time or initial location or any of them specified for the commencement of the strike or lockout.

(2) The mediator who was notified under section 78 shall be forthwith notified of any amendment to the strike notice or the lockout notice.

1988 cL-1.2 s77

**Strike or lockout notice becomes ineffective**

**80** If a strike or lockout does not or is not permitted to occur

- (a) on the date and at the time and location specified in the strike notice or lockout notice, or
- (b) if the notice is amended, on the date and at the time and location specified in the amended notice,

the notice becomes ineffective and another notice must be served in accordance with section 78 before the party concerned strikes or locks out or causes a strike or lockout, as the case may be.

1988 cL-1.2 s78

**Settlement of strike affecting employers' organization**

**81(1)** When a bargaining agent is entitled to cause a strike and wishes to do so in respect of an employers' organization, it shall cause the strike in respect of all employers affected by the dispute on whose behalf the employers' organization bargains collectively.

(2) When a strike commences affecting employers who authorized an employers' organization that is not a registered employers' organization to bargain collectively on their behalf, the bargaining

agent may, at any time after the strike commences, make a settlement with any employer.

(3) When a strike commences that affects employers on whose behalf a registered employers' organization bargains collectively, the bargaining agent may, 60 days after the date the strike commences, make a settlement with one or more of the employers.

(4) An employer on whose behalf a registered employers' organization bargains collectively and the bargaining agent shall not settle the matters in dispute between them during the 60 days following the date the strike commences.

1988 cL-1.2 s79

#### **Settlement of lockout called by employers' organization**

**82(1)** When an employers' organization is entitled to cause a lockout and wishes to do so, all employers affected by the dispute on whose behalf the employers' organization bargains collectively shall participate in the lockout.

(2) When a lockout commences that affects employers who authorized an employers' organization that is not a registered employers' organization to bargain collectively on their behalf, an employer may, at any time after the lockout commences, make a settlement with the bargaining agent.

(3) When a lockout commences that affects employers on whose behalf a registered employers' organization bargains collectively, an employer may, 60 days after the date the lockout commences, make a settlement with the bargaining agent.

(4) An employer on whose behalf a registered employers' organization bargains collectively and the bargaining agent shall not settle the matters in dispute between them during the 60 days following the date the lockout commences.

1988 cL-1.2 s80

#### **Agreement re sections 81 and 82**

**83(1)** If a settlement of a dispute is effected contrary to section 81 or 82, any agreement arising from that settlement is void and of no effect.

(2) A settlement under section 81 or 82 remains in effect until the earliest of

- (a) the revocation of the bargaining rights of a trade union,
- (b) either
  - (i) the expiry of the term specified in the settlement, or

- (ii) one year, if the term is unspecified,
- and
- (c) the entering into a collective agreement between the employers' organization or registered employers' organization and the bargaining agent or agents.

1988 cL-1.2 s81

## **Division 14 Regulation of Strikes, Lockouts and Picketing**

### **Picketing**

**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.

**(2)** For purposes of subsection (1), premises

- (a) at which work that is normally done by striking or locked-out employees is done during a strike or lockout,
- (b) the employer uses to further a lockout or resist a strike, or
- (c) at which a third party assists the employer in furthering a lockout or in resisting a strike by performing services for the employer that it does not normally provide,

are deemed to be a place of employment of the striking or locked-out employees, and a person or business undertaking that work or providing those services is deemed to be the employer.

**(3)** Picketing in connection with a labour dispute or difference must be conducted without wrongful acts.

**(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.

(5) On the application of any person affected by the strike or lockout the Board may, in addition to and without restricting any other powers under this Act, including the powers of the Board with respect to section 154,

- (a) determine whether the picketing is lawful and whether any premises are a place of employment for the purposes of subsections (1) and (2), and
- (b) regulate persons and trade unions who picket in respect of a labour dispute or difference and by order declare what number of persons may picket, determine the location and time of picketing and make any other declarations that the Board considers advisable.

(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.

RSA 2000 cL-1 s84;2017 c9 s126

#### **Refusal to work**

**85** No employee shall

- (a) refuse 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 person or class of persons who were not or are not members of a trade union or a particular trade union, or
- (b) refuse to take delivery of goods from a carrier or refuse to assist the carrier in the loading of goods for shipment except where the carrier and the carrier's employees are engaged in a lawful strike or lawful lockout.

1988 cL-1.2 s83

#### **Board powers over unlawful strikes, etc.**

**86** Where the Board is satisfied that



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

1988 cL-1.2 s84

#### **Board powers over unlawful lockout, etc.**

**87** Where the Board is satisfied that

- (a) an employer or employers' organization called or authorized or threatened to call or authorize an unlawful lockout, or
- (b) an officer, official or agent of an employer or employers' organization counselled, procured, supported or encouraged an unlawful lockout or threatened an unlawful lockout,

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

1988 cL-1.2 s85

#### **Effect of directive**

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

1988 cL-1.2 s86

#### **Employment continues**

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

1988 cL-1.2 s87

#### **Reinstatement of employee**

**90(1)** When a strike or lockout ends

- (a) as a result of a settlement,
- (b) on the termination of bargaining rights of the bargaining agent, or
- (c) on the expiration of 2 years from the date the strike or lockout commenced,

any employee affected by the dispute whose employment relationship with the employer has not been otherwise lawfully terminated is entitled, on request, to resume the employee's employment with the employer in preference to any employee hired by the employer as a replacement employee for the employee making the request during the strike or lockout.

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

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

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

**(3)** Nothing in subsection (1)

- (a) prevents the parties to a dispute from agreeing on a mechanism for an orderly return to work within a reasonable period after a strike or lockout is over, or
- (b) requires an employer to reinstate an employee where
  - (i) the employer no longer has persons engaged in performing work the same or similar to work that the employee performed prior to the employee's cessation of work, or
  - (ii) there has been a suspension or discontinuance for cause of an employer's operations or any part of them, but, if the employer resumes those operations, the employer shall first reinstate those employees who have requested a resumption of employment.

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

1988 cL-1.2 s88

**Jurisdiction of court**

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

- (a) there is a reasonable likelihood of danger to persons or property, or
- (b) resort to the Board is impractical in the circumstances, in which case the court may issue an order, which shall remain effective until the time that the Board is able to determine the matter.

1988 cL-1.2 s89

**Injunctions**

**92(1)** Notwithstanding anything in this Act, the *Judicature Act* or any other Act, when there is a strike or lockout, no injunction before trial shall be granted ex parte to

- (a) a party to the dispute, or
- (b) any other person or party,

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

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

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

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

RSA 2000 cL-1 s92;2009 c53 s92

### **Division 14.1 First Contract Arbitration**

**Definition**

**92.1** In this Division, "employer" includes an employers' organization.

2017 c9 s127

**First contract**

**92.2(1)** If a dispute relating to concluding a first collective agreement has not been resolved, one or both parties to the dispute may apply to the Board for its assistance in settling the terms of the first collective agreement.

**(2)** An application may be made under subsection (1) only if

- (a) a bargaining agent and an employer have failed to conclude their first collective agreement after having bargained collectively for at least 90 days from the day on which
  - (i) notice to commence collective bargaining was served, or

(ii) collective bargaining commenced, if no notice was served,

or

(b) a strike or lockout notice has been served, whether or not a strike or lockout has begun.

**(3)** No application may be made under subsection (1) if an application is pending under section 95.45(1).

**(4)** On receipt of an application, if the 120-day period referred to in section 147(2) has not expired, the Board shall direct that the period be extended until the processes under this Division have concluded or the Board directs otherwise.

**(5)** On or after receipt of an application, if a strike or lockout notice has been served or a strike or lockout is occurring, the Board may by order or interim order

(a) terminate any strike or lockout as of a date set by the Board,

(b) allow the parties to exercise or continue to exercise their right to strike or to lock out, or

(c) amend any order or interim order, if it is appropriate to do so.

**(6)** The Board may, after considering the circumstances,

(a) direct that each party provide the Board with its last proposal,

(b) direct the parties to continue collective bargaining and prescribe any conditions under which that collective bargaining is to take place,

(c) appoint any person as a mediator to provide enhanced mediation to assist the parties in resolving the dispute and prescribe the conditions under which that mediation is to take place, or

(d) provide any other directions or supervise or conduct any votes, including strike votes or lockout votes, as are appropriate in the circumstances.

2017 c9 s127

#### **Declaration**

**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.

2017 c9 s127

#### **Appointment of arbitrator or arbitration board**

**92.4(1)** When the Board makes a declaration under section 92.3(1), the Board shall

- (a) if the Board is willing to do so, and the parties agree, arbitrate the matter itself, in which case a reference to an arbitrator or arbitration board under this Division includes the Board, or
- (b) after consulting with the parties, appoint an arbitrator or the members of an arbitration board and provide the arbitrator or arbitration board with a list of the items remaining in dispute.

**(2)** The arbitrator or arbitration board under subsection (1) shall conduct the arbitration expeditiously and make a final and binding award resolving all items remaining in dispute.

**(3)** The arbitrator or arbitration board shall provide in the award for a method of resolving any discipline or discharge disputes that arose during the dispute and if any strike or lockout has occurred, for an orderly return to work.

**(4)** The arbitrator or arbitration board shall not in its award, except with the parties' consent, alter any previously agreed item.

**(5)** If the parties have not already agreed on a term for the collective agreement, the arbitrator or arbitration board shall provide for a term not exceeding 18 months, which must not commence on or be made retroactive to a date earlier than the date on which notice to commence collective bargaining was served or,

if no notice was served, when collective bargaining actually commenced.

**(6)** The arbitrator or arbitration board shall give the parties directions as are necessary to compile and execute the collective agreement, following which the arbitrator or arbitration board shall certify that the collective agreement is in effect.

**(7)** When the Board makes a declaration under section 92.3(1) or gives an order or a direction to terminate a strike or lockout under section 92.2(5)(a), any strike or lockout becomes illegal and an offence under this Act, and

- (a) no employer who is a party to the dispute shall lock out,
- (b) no employees who are parties to the dispute shall strike,
- (c) any strike or lockout that is in effect shall terminate, and
- (d) the relationship of employer and employee continues uninterrupted by the dispute or anything arising from the dispute and, unless the parties agree otherwise, the terms and conditions of employment that existed immediately prior to the dispute shall not be altered.

**(8)** When the Board makes a declaration under section 92.3(1), the following applies to an arbitrator or arbitration board:

- (a) section 120(3) and (4) and sections 121 to 127 apply except that any reference to the Minister in any of those provisions is deemed to be a reference to the Board;
- (b) the remuneration and expenses of any mediators or arbitrators appointed by the Board under this Division must be shared equally by the parties except if an arbitration board member is appointed by the Board as a representative of a party, in which case that arbitration board member shall be paid by the party for whom the representative is appointed.

2017 c9 s127

## **Division 15**

### **Voluntary Interest Arbitration**

#### **Agreement re voluntary arbitration board**

**93(1)** The parties to a dispute may agree in writing to refer the matters in dispute to a one-member or 3-member voluntary arbitration board, whose decision will be binding.

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

1988 cL-1.2 s91

#### **Voluntary arbitration board**

**94** If the parties who have entered into an agreement under section 93 do not appoint a one-member or 3-member voluntary arbitration board, either party may notify the Minister, who shall serve notice on the parties to the dispute directing them to appoint a voluntary arbitration board in accordance with Division 20.

1988 cL-1.2 s92

#### **Powers of voluntary arbitration board**

**95(1)** If a voluntary arbitration board is unable to effect a settlement within 20 days after a statement of the dispute is sent to the member of a one-member board or the chair of a 3-member board or any longer period that may be agreed on between the parties or fixed by the Minister, the voluntary arbitration board shall make an award dealing with all matters in dispute.

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

1988 cL-1.2 s93

### **Division 15.1 Essential Services**

#### **Essential services**

**95.1** For the purposes of this Division, essential services are those services

- (a) the interruption of which would endanger the life, personal safety or health of the public, or
- (b) that are necessary to the maintenance and administration of the rule of law or public security.

2016 c10 s8

#### **Interpretation**

**95.11(1)** In this Division,

- (a) “designated essential services worker” means an employee described in subsection (2);
- (b) “employee” means an employee referred to in section 95.2;
- (c) “employer” means an employer referred to in section 95.2;



- (d) “essential services” means those services described in section 95.1;
- (e) “party” means either an employer or the bargaining agent for a bargaining unit of the employer’s employees.

(2) An employee who is required to work in accordance with an essential services agreement is a designated essential services worker during those times that the employee is required to perform essential services under the agreement.

2016 c10 s8

#### **Application of Division**

**95.2(1)** This Division applies to the following:

- (a) employers who operate approved hospitals as defined in the *Hospitals Act*, all the employees of those employers and the bargaining agents for those employees;
- (b) employers that are regional health authorities, all of their employees to whom clauses (a), (e) and (f) do not apply and the bargaining agents for those employees;
- (c) employers to whom the *Public Service Employee Relations Act* applies, all the employees of those employers and the bargaining agents for those employees;
- (d) employers described in section 58.2(1)(a) to (c), all the employees of those employers and the bargaining agents for those employees;
- (e) employers who operate nursing homes as defined in the *Nursing Homes Act*, all the employees of those employers and the bargaining agents for those employees;
- (f) employers who are licensed or required to be licensed under the *Supportive Living Accommodation Licensing Act*, all the employees of those employers and the bargaining agents for those employees;
- (g) employers who under a contract with a regional health authority provide health care services or support services authorized under the *Co-ordinated Home Care Program Regulation* under the *Public Health Act*, all the employees of those employers and the bargaining agents for those employees;
- (h) employers who are subsidiary health corporations of a regional health authority, all the employees of those employers and the bargaining agents for those employees;

- (i) employers whose primary operations are the provision of medical laboratory diagnostic services under a contract with a regional health authority, other than employers that are professional corporations within the meaning of the *Health Professions Act*, all the employees of those employers and the bargaining agents for those employees;
- (j) Canadian Blood Services and any of its agents and successors, all their employees and the bargaining agents for those employees.

**(2)** With respect to the parties referred to in subsection (1)(e) to (j), if before the day on which the Bill to enact the *Fair and Family-friendly Workplaces Act* receives first reading,

- (a) a mediator has been appointed under section 65, and
- (b) the dispute has not been resolved,

the parties must, subject to receiving an exemption under section 95.21, enter into an essential services agreement within 120 days after the Bill to enact the *Fair and Family-friendly Workplaces Act* receives Royal Assent or any longer period agreed on by the parties.

**(3)** For the purpose of subsection (2), section 95.42 applies if the parties are unable at any time to agree on an essential services agreement.

2016 c10 s8;2017 c4 s2;2017 c9 s128

### Exemption

**95.21(1)** At any time, whether or not the parties have an essential services agreement, either or both parties may apply to the Commissioner for an order exempting the employer and the bargaining agent for a bargaining unit from the application of sections 95.4 to 95.8.

**(2)** The Commissioner may grant the order if

- (a) the employees in the bargaining unit represented by the bargaining agent do not perform essential services, or
- (b) the employees in the bargaining unit represented by the bargaining agent perform essential services and those services can be maintained during a strike or lockout by other capable and qualified persons who are not employees in the bargaining unit and who are not hired or supplied as described in section 95.41(3).

- (3) The order expires when a collective agreement is entered into or on the termination of a strike or lockout.
- (4) The Commissioner may, on application of either or both of the parties, rescind the order if the circumstances that led to the granting of the order have significantly changed.
- (5) In making an order under subsection (4), the Commissioner may
- (a) direct the parties to begin negotiations for an essential services agreement under section 95.4,
  - (b) if a strike or lockout has commenced, forthwith give directions to ensure that essential services are maintained during the strike or lockout, or
  - (c) provide any other directions as are appropriate in the circumstances.

2016 c10 s8

**Commissioner**

**95.3(1)** The Lieutenant Governor in Council shall designate the Chair or a vice-chair as Commissioner.

- (2) The Commissioner may, for the purposes of this Division, decide whether
- (a) a person is an employee,
  - (b) a person is an employer,
  - (c) a person is a designated essential services worker,
  - (d) an essential services agreement has been entered into, amended or terminated,
  - (e) a person is bound by an essential services agreement,
  - (f) a person is a party to an essential services agreement,
  - (g) an essential services agreement is in effect, and
  - (h) a service is an essential service,

and the Commissioner's decision is final and binding.

(3) Part 2, Division 1 applies to the Commissioner when exercising the Commissioner's powers, duties and functions under this Division unless this Act otherwise provides.

(4) When adjudicating any matter under this Division, the Commissioner may mediate the dispute between the parties.

2016 c10 s8

#### **Negotiating an essential services agreement**

**95.4(1)** A party may, at any time by written notice to the other party, require the other party to begin negotiations for an essential services agreement.

(2) Forthwith after giving the notice to begin the negotiations, the party must provide the other party with its proposals regarding an essential services agreement.

(3) The parties shall negotiate in good faith and make every reasonable effort to enter into an essential services agreement.

(4) A party may make a complaint in writing to the Commissioner that the other party has failed to comply with subsection (2) or (3), and the Commissioner shall inquire into the complaint.

(5) When the Commissioner is satisfied after an inquiry that a party has failed to comply with subsection (2) or (3), the Commissioner may do either or both of the following:

- (a) issue a directive directing the party to comply with subsection (2) or (3), as the case may be;
- (b) prescribe the conditions under which the negotiation of an essential services agreement is to take place.

2016 c10 s8

#### **Contents of an essential services agreement**

**95.41(1)** An essential services agreement must include at least the following:

- (a) provisions that identify the essential services that are to be maintained by employees in the bargaining unit in the event of a strike or lockout;
- (b) provisions that set out the classifications of employees, and the number of positions in each classification, required to perform the essential services referred to in clause (a);
- (c) provisions that set out a method by which the employees capable of performing and qualified to perform essential services will be assigned to perform those services during a strike or lockout;
- (d) provisions that set out the procedures to be followed in responding to emergencies and foreseeable changes to the

essential services that need to be maintained during a strike or lockout;

- (e) provisions describing changes or permitted changes, if any, to the terms and conditions of employment that are to apply to designated essential services workers under sections 130(2) and 147(4) of this Act and sections 24.1(2) and 46(2.1) of the *Public Service Employee Relations Act*;
- (f) provisions that identify sufficient umpires, but at least one umpire, to be available to provide timely resolution of disputes under section 95.7.

(2) For the purposes of this section, the requirement for designated essential services workers is to be determined having regard, subject to subsection (3), to the availability of other capable and qualified persons who are not members of the bargaining unit.

(3) During a strike or lockout, the employer shall not use the services of a person, whether paid or not,

- (a) who is hired by the employer for the purpose of, or
- (b) who is supplied to the employer by another person for the purpose of,

performing the work of an employee in the bargaining unit that is on strike or lockout.

2016 c10 s8

#### **Determination of an essential services agreement**

**95.42(1)** Where the parties agree to use an umpire to mediate and, if necessary, to settle an essential services agreement, the parties may apply to the Commissioner to appoint an umpire if they cannot agree on an umpire.

(2) Where the parties do not agree to the use of an umpire, either or both parties may apply to the Commissioner for assistance in settling the essential services agreement.

(3) On receipt of an application under subsection (2), the Commissioner may

- (a) appoint an umpire to settle the provisions of the essential services agreement,
- (b) settle the provisions of the agreement, or
- (c) provide any other directions as are appropriate in the circumstances.

- (4) If an umpire is appointed, each party must promptly give the umpire a statement setting out the matters on which the parties have agreed, if any, and the matters on which they are unable to agree.
- (5) An umpire appointed under this section to settle the provisions of the essential services agreement may mediate the dispute between the parties.
- (6) If the umpire or the Commissioner settles the provisions of the essential services agreement, the parties shall submit the agreement for filing in accordance with section 95.44.
- (7) Either party may apply to the Commissioner for a review of an umpire's award settling the provisions of an essential services agreement within 10 days of the umpire making the award, on grounds that it is unreasonable.
- (8) The parties must share equally the remuneration and expenses of the umpire, unless otherwise agreed to by the parties.

2016 c10 s8

**Amendment of agreement**

- 95.43(1)** The parties to an essential services agreement may at any time amend the agreement in writing.
- (2) Section 95.42 applies if the parties are unable to agree on an amendment to the essential services agreement.
- (3) An amendment to an essential services agreement is not effective until it is accepted for filing in accordance with section 95.44.

2016 c10 s8

**Filing of essential services agreement**

- 95.44(1)** In this section, "essential services agreement" includes an amendment to an essential services agreement.
- (2) The parties must submit an essential services agreement for filing for each round of collective bargaining unless an exemption has been granted under section 95.21.
- (3) When an essential services agreement is submitted for filing, each party must declare to the Commissioner
- (a) whether the agreement ensures that essential services are maintained during any strike or lockout, and
  - (b) whether the provision of essential services required by the essential services agreement during a strike or lockout will

not substantially interfere with meaningful collective bargaining.

**(4)** The Commissioner may accept an essential services agreement for filing if in the opinion of the Commissioner

- (a) the agreement complies with section 95.41,
- (b) the agreement ensures the provision of essential services during a strike or lockout, and
- (c) the provision of essential services required by the essential services agreement during a strike or lockout will not substantially interfere with meaningful collective bargaining.

**(5)** If the Commissioner believes that a hearing is necessary to determine whether an essential services agreement should be accepted for filing, the Commissioner shall advise the parties and hold a hearing.

**(6)** If the Commissioner refuses to accept an essential services agreement for filing, the Commissioner may endeavour to make the agreement acceptable for filing by

- (a) directing the parties to negotiate amendments to the essential services agreement,
- (b) assisting the parties in amending the agreement,
- (c) amending the agreement,
- (d) appointing an umpire to amend the agreement, and
- (e) providing any other directions as are appropriate in the circumstances.

**(7)** If the Commissioner determines that an essential services agreement acceptable for filing cannot be achieved under subsection (6), and the Commissioner is satisfied that the provision of essential services during a strike or lockout will substantially interfere with meaningful collective bargaining, the Commissioner may declare that the dispute is to be resolved by compulsory arbitration if the parties cannot reach a collective agreement.

**(8)** Where a declaration is made under subsection (7) the parties shall

- (a) continue to bargain collectively, and

- (b) if the parties are unable to conclude a collective agreement after mediation is completed under section 65 of this Act or section 65 as it applies to the *Public Service Employee Relations Act*, as the case may be, the parties may, as applicable,
  - (i) request the Minister to establish a compulsory arbitration board under section 98.1, or
  - (ii) request the Board under section 31(1) of the *Public Service Employee Relations Act* to establish a compulsory arbitration board.

2016 c10 s8

**Significant change in circumstances**

**95.45(1)** On application by either or both parties during a strike or lockout, if the Commissioner is satisfied that, as a result of an emergency or an unforeseeable change in circumstances,

- (a) there has been a significant change to the essential services that must be maintained during the strike or lockout, and
- (b) the change referred to in clause (a) will substantially interfere with meaningful collective bargaining,

the Commissioner may declare that the dispute is to be resolved by compulsory arbitration.

**(2)** If the Commissioner makes a declaration under subsection (1), the parties may, as applicable,

- (a) request the Minister to establish a compulsory arbitration board under section 98.1, or
- (b) request the Board under section 31(1) of the *Public Service Employee Relations Act* to establish a compulsory arbitration board.

**(3)** If the Commissioner makes a declaration under subsection (1), any strike or lockout becomes illegal and an offence under this Act, and

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



- (d) the relationship of employer and employee continues uninterrupted by the dispute or anything arising from the dispute.

**(4)** If the Commissioner makes a declaration under subsection (1), notwithstanding anything in this Act or the *Public Service Employee Relations Act*, neither party to the dispute shall alter any of the terms and conditions of employment that existed immediately prior to the dispute, except that the employer, with the consent of the bargaining agent, may give effect to a proposed change in wages or hours of work.

2016 c10 s8

#### **Agreement binding**

**95.5** An essential services agreement accepted for filing in accordance with section 95.44 is binding on

- (a) the employer,
- (b) the bargaining agent, and
- (c) every employee of the employer who is in the bargaining unit represented by the bargaining agent.

2016 c10 s8

#### **Term of an essential services agreement**

**95.6** Where the parties have negotiated a continuing essential services agreement, notwithstanding that the agreement has previously been accepted for filing, the agreement must be submitted for filing in accordance with section 95.44 for each ensuing round of collective bargaining.

2016 c10 s8

#### **Essential services agreement dispute**

**95.7(1)** Either party to an essential services agreement may notify the other in a manner provided for in the essential services agreement that it

- (a) disputes the manner in which the other party is interpreting, applying or implementing the agreement, or
- (b) alleges that the other party has contravened the agreement.

**(2)** Where the parties are unable to resolve a dispute referred to in subsection (1), either party may apply in a manner provided for in the essential services agreement for an umpire identified in the essential services agreement to resolve the dispute.

**(3)** After receiving an application referred to in subsection (2), the umpire may

- (a) make or issue any interim award the umpire considers necessary pending the final determination of the dispute,
- (b) settle the dispute as soon as is reasonably possible, and
- (c) provide any other directions as are appropriate in the circumstances.

(4) If no umpire identified by the parties in the essential services agreement is available to provide timely resolution of the dispute, either or both parties may apply to the Commissioner to appoint an umpire to resolve the dispute.

(5) An umpire has the powers of an arbitrator under section 143 and, subject to the terms of the essential services agreement, may mediate the dispute.

(6) The award of an umpire is binding on

- (a) the employer,
- (b) the bargaining agent, and
- (c) every employee of the employer who is in the bargaining unit represented by the bargaining agent.

(7) The parties must share equally the remuneration and expenses of the umpire unless the essential services agreement otherwise provides.

(8) Either party may apply to the Commissioner for a review of an umpire's award within 10 days of the umpire making the award, on grounds that it is unreasonable.

(9) An umpire shall file a copy of an award with the Commissioner, and if the employer or bargaining agent fails to comply with the award, the Commissioner may file a copy of the award with the clerk of the Court and on being filed the award is enforceable as a judgment or order of the Court.

2016 c10 s8

**Prohibitions when essential services agreement in effect**

**95.8(1)** While an essential services agreement is in effect,

- (a) no employer and no person acting on an employer's behalf shall lock out or cause a lockout or threaten to lock out or to cause a lockout of any designated essential services worker,

- (b) no bargaining agent and no person acting on behalf of a bargaining agent shall strike or cause a strike or threaten to strike or to cause a strike of any designated essential services worker, and
- (c) no designated essential services worker shall participate in a strike against the employer.

(2) No person or trade union shall in any manner impede or prevent or attempt to impede or prevent a designated essential services worker from complying with this Division.

2016 c10 s8

#### **Application of transitional provisions**

**95.9** Sections 95.91 and 95.92 apply only to employers, employees and bargaining agents referred to in section 95.2.

2016 c10 s8

#### **Transitional — parties in mediation**

**95.91(1)** If before the day on which the Bill to enact *An Act to Implement a Supreme Court Ruling Governing Essential Services* receives first reading,

- (a) a mediator has been appointed under section 65 or 97 of this Act or under section 28 or 32(1)(b) of the *Public Service Employee Relations Act*,
- (b) the dispute has not been resolved, and
- (c) a notification to appoint a compulsory arbitration board has not been issued by, as the case may be,
  - (i) the Minister under section 117(1), or
  - (ii) the Board under section 33 of the *Public Service Employee Relations Act*,

the parties must, subject to receiving an exemption under section 95.21, enter into an essential services agreement within 120 days after the Bill to enact *An Act to Implement a Supreme Court Ruling Governing Essential Services* receives Royal Assent or any longer period agreed on by the parties.

(2) Section 95.42 applies if the parties are unable at any time to agree on an essential services agreement.

(3) If, on or after the day on which the Bill to enact *An Act to Implement a Supreme Court Ruling Governing Essential Services* receives first reading but before it receives Royal Assent,

- (a) the Minister notifies the parties to a dispute under section 117(1) to appoint a compulsory arbitration board pursuant to section 98, or
- (b) the Board notifies the parties to a dispute under section 33 of the *Public Service Employee Relations Act* to appoint persons to act as members of a compulsory arbitration board,

a compulsory arbitration board subsequently appointed pursuant to that notification is terminated and any award made by the compulsory arbitration board is void.

2016 c10 s8

**Transitional — compulsory arbitration board established**

**95.92(1)** If before the day on which the Bill to enact *An Act to Implement a Supreme Court Ruling Governing Essential Services* receives first reading,

- (a) the Minister notifies the parties to a dispute under section 117(1) to appoint a compulsory arbitration board pursuant to section 98, or
- (b) the Board notifies the parties to a dispute under section 33 of the *Public Service Employee Relations Act* to appoint persons to act as members of a compulsory arbitration board,

the compulsory arbitration board appointed pursuant to that notification continues as the dispute resolution process unless the parties agree to terminate the compulsory arbitration board.

**(2)** The parties may agree to terminate the compulsory arbitration board if it has not made an award by filing with the Board a copy of their agreement that the compulsory arbitration board is to be terminated.

**(3)** If a compulsory arbitration board is terminated under this section, the parties must, subject to receiving an exemption under section 95.21, enter into an essential services agreement within 120 days of the termination of the compulsory arbitration board or any longer period agreed on by the parties.

**(4)** Section 95.42 applies if the parties are unable at any time to agree on an essential services agreement.

2016 c10 s8

## Division 16 Compulsory Interest Arbitration

### Application of Division

**96(1)** Subject to subsections (2), (3) and (4), this Division applies, notwithstanding any other provision of this Act, to

- (a) firefighters and, to the extent that they bargain collectively with firefighters, municipalities and Metis settlements,
- (b) employers who are ambulance operators as defined in the *Emergency Health Services Act* and their employees who act as ambulance attendants as defined in that Act to whom neither clause (c) nor (d) applies,
- (c) employers who operate approved hospitals as defined in the *Hospitals Act* and all the employees of those employers,
- (d) employers that are regional health authorities and all of their employees to whom clauses (c), (f) and (g) do not apply,
- (e) employers described in section 58.2(1)(a) to (c) and all the employees of those employers,
- (f) employers who operate nursing homes as defined in the *Nursing Homes Act* and all the employees of those employers,
- (g) employers who are licensed or required to be licensed under the *Supportive Living Accommodation Licensing Act* and all the employees of those employers,
- (h) employers who under a contract with a regional health authority provide health care services or support services authorized under the *Co-ordinated Home Care Program Regulation* under the *Public Health Act* and all the employees of those employers,
- (i) employers who are subsidiary health corporations of a regional health authority and all the employees of those employers,
- (j) employers whose primary operations are the provision of medical laboratory diagnostic services under a contract with a regional health authority, other than employers that are professional corporations within the meaning of the *Health Professions Act*, all the employees of those employers,
- (k) Canadian Blood Services and any of its agents and successors and all their employees.

(2) No employees or employers referred to in subsection (1)(a) or (b) shall strike, lock out, cause a strike or lockout or threaten to cause a strike or lockout.

(3) Section 98.1 applies only to employees and employers referred to in subsection (1)(c) to (k).

(4) Sections 97, 98 and 99 apply only to employees and employers referred to in subsection (1)(a) and (b).

RSA 2000 cL-1 s96;2003 c6 s4;2008 cE-6.6 s54;  
2008 c9 s7;2016 c10 s9;2017 c9 s129

#### **Request for compulsory arbitration board**

**97(1)** If a dispute affecting an employment referred to in section 96(1)(a) or (b) cannot be resolved, either or both parties to the dispute or the Minister may make a request for the appointment of a 3-member compulsory arbitration board, or the parties may jointly make a request for the appointment of a one-member compulsory arbitration board, to

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

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

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

- (a) list the items in dispute and the items that have been settled by the parties, and
- (b) forward the list and the request for the appointment of a compulsory arbitration board to the Minister.

RSA 2000 cL-1 s97;2016 c10 s10

#### **Establishment of compulsory arbitration board**

**98** When the Minister receives a request for the appointment of a compulsory arbitration board, the Minister,

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

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

1988 cL-1.2 s96

#### **Establishment of compulsory arbitration board — essential services employees**

**98.1** Where the parties have made a request under section 95.44(8)(b) or 95.45(2)(a) to the Minister to establish a compulsory arbitration board, the Minister shall direct the parties to appoint a 3-member or one-member compulsory arbitration board in accordance with Division 20 and shall direct the parties to provide a list of the matters remaining in dispute to the compulsory arbitration board.

2016 c10 s11

#### **Terms of reference**

**99** When 3 persons are appointed to act as members of a 3-member compulsory arbitration board or one person is appointed to act as the member of a one-member compulsory arbitration board, the Minister, by notice in writing to the chair or member, as the case may be, shall forward the list referred to in section 97(3) to be resolved by the compulsory arbitration board.

RSA 2000 cL-1 s99;2016 c10 s11

#### **Methods of arbitration**

**100(1)** On receipt of the list under section 98.1 or 99, if the compulsory arbitration board is unable to effect a settlement, it shall consider the position of the parties on each item in dispute and determine what method or combination of methods of arbitration shall be implemented to resolve any or all of the items in dispute.

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

RSA 2000 cL-1 s100;2016 c10 s12

#### **Matters to be considered**

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

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

- (i) wages and benefits in private and public, and unionized and non-unionized, employment;
  - (ii) the continuity and stability of private and public employment, including
    - (A) employment levels and incidence of layoffs,
    - (B) incidence of employment at less than normal working hours, and
    - (C) opportunity for employment;
  - (iii) the general economic conditions in Alberta,
- and
- (b) may consider, for the period with respect to which the award will apply, the following:
    - (i) the terms and conditions of employment in similar occupations outside the employer's employment taking into account any geographic, industrial or other variations that the board considers relevant;
    - (ii) the need to maintain appropriate relationships in terms and conditions of employment between different classification levels within an occupation and between occupations in the employer's employment;
    - (iii) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered;
    - (iv) any other factor that it considers relevant to the matter in dispute.

1988 cL-1.2 s99

**Award**

**102(1)** As soon as possible after a dispute is referred to the compulsory arbitration board, and in any case within

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



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

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

1988 cL-1.2 s100

#### **Incorporation of award**

**103(1)** If either of the parties to the dispute neglects or refuses to participate in the preparation of a collective agreement in accordance with the award of the compulsory arbitration board, the other party may prepare a collective agreement giving effect to

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

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

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

1988 cL-1.2 s101

#### **Reconvening of compulsory arbitration board**

**104(1)** If a question arises concerning the award of a compulsory arbitration board within 30 days from the date on which the award was made, the Minister, at the request of one or both of the parties, may direct the member or chair of the compulsory arbitration board to reconvene the compulsory arbitration board for the purpose of deciding the question.

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

1988 cL-1.2 s102

## **Division 17**

### **Disputes Inquiry Boards**

#### **Notice of establishment of disputes inquiry board**

**105(1)** The Minister may appoint a disputes inquiry board in accordance with Division 20 with respect to a dispute.

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

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

- (a) 10 days after the Minister serves a copy of the recommendations of the disputes inquiry board on the parties, or
- (b) if the Board conducts a vote under section 107, until 72 hours after the Board notifies the parties of the results of that vote.

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

1988 cL-1.2 s103

#### **Recommendations of disputes inquiry board**

**106(1)** If a disputes inquiry board is unable to effect a settlement of a dispute within

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

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

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

1988 cL-1.2 s104

#### **Collective agreement after recommendations**

**107(1)** If the parties to a dispute accept the recommendations of a disputes inquiry board, the recommendations are binding on the parties and shall be included in the terms of a collective agreement.

(2) Unless a party to the dispute notifies the Minister of its acceptance of the recommendations of the disputes inquiry board within 10 days after being served with a copy of the recommendations or, if the disputes inquiry board has reconvened under section 109, within 10 days after being served with a notification under that section, the Board shall,

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

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

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

(5) Notwithstanding subsection (4), if the ratification procedure referred to in section 61(6) for an employers' organization requires ratification by the employers on a weighted vote system, a vote for acceptance or rejection of the recommendations of the disputes inquiry board by the employers shall be determined on the basis of that weighted vote system.

1988 cL-1.2 s105

#### **Incorporation of award**

**108(1)** If either party to the dispute neglects or refuses to participate in the preparation of a collective agreement in accordance with section 107, the other party may prepare a collective agreement giving effect to

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

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

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

1988 cL-1.2 s106

#### **Questions on recommendations**

**109(1)** If a question arises concerning the recommendations of a disputes inquiry board, the Minister, at the request of one or both of the parties, may request the member or chair of the disputes inquiry board to reconvene the board to consider and decide the question.

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

(3) A decision under subsection (1) shall be dealt with in the same manner as a recommendation under section 106.

1988 cL-1.2 s107

#### **Limits on disputes inquiry boards**

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

1988 cL-1.2 s108

#### **Referral of other disputes**

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

1988 cL-1.2 s109

## **Division 18 Emergencies**

#### **Emergencies**

**112(1)** If in the opinion of the Lieutenant Governor in Council, after considering the state of collective bargaining and the prospects for settlement, an emergency arising out of a dispute exists or may occur in such circumstances that

- (a) damage to health or property is being caused or is likely to be caused because
  - (i) a sewage system, plant or equipment or a water, heating, electric or gas system, plant or equipment has ceased to operate or is likely to cease to operate, or
  - (ii) health services have been reduced, have ceased or are likely to be reduced or to cease,
- (b) unreasonable hardship is being caused or is likely to be caused to persons who are not parties to the dispute, or
- (c) harm to livestock or irreversible damage to crops is being caused or is likely to be caused,

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

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

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

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

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

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

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

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

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

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

(7) The *Regulations Act* does not apply to an order or procedure established under this section or section 113.

RSA 2000 cL-1 s112;2017 c9 s130

#### **Public emergency tribunal**

**113(1)** As a procedure or part of a procedure to settle a dispute under section 112, the Minister may establish a public emergency tribunal in accordance with Division 20.

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

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

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

1988 cL-1.2 s111

**114 to 116** Repealed 2017 c9 s131.

### **Division 20 Disputes Resolution Tribunals**

#### **Appointment of interest arbitration boards**

**117(1)** If the Minister directs the parties to a dispute to appoint a voluntary arbitration board under section 94 or a compulsory arbitration board under section 98 or 98.1, the Minister shall notify the parties to the dispute in writing accordingly and require them either

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

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

within 10 days after that notification.

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

RSA 2000 cL-1 s117;2016 c10 s15

#### **Appointments by Minister**

**118(1)** If a party to the dispute fails to appoint a person to act as a member of a voluntary arbitration board or compulsory arbitration board or if the parties, having agreed to do so, fail to jointly appoint a person to act as a one-member arbitration board, the Minister may appoint a person to act as the member.

**(2)** If the 2 persons appointed as members of an arbitration board under section 117(1)(a) fail to appoint a person to act as a member and chair, the Minister may appoint a person to act as a member and chair.

1988 cL-1.2 s116

#### **Appointments of members of other boards**

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

- (a) appoint or provide for the appointment of one or more persons as its members, and
- (b) if more than one person is appointed, designate a chair.

1988 cL-1.2 s117

#### **Membership**

**120(1)** The remuneration and expenses of the persons appointed under section 117 or 118 must be paid,

- (a) in the case of a person appointed or who should have been appointed individually by a party, by that party, and
- (b) in the case of the chair or a person appointed or who should have been appointed jointly by the parties, jointly by the parties.

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

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

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

1988 cL-1.2 s118

#### **Revocation of appointments**

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

- (a) revoke the appointment of the member, and
- (b) appoint another person in the member's place.

1988 cL-1.2 s119

#### **Meetings**

**122(1)** A disputes resolution tribunal shall meet at the times and places fixed by the single member or chair of the tribunal.

(2) The chair of a disputes resolution tribunal that has more than one member shall notify each member of the board of the date, time and place of each meeting.

(3) A disputes resolution tribunal may decide to hold all or any part of a meeting in private.

1988 cL-1.2 s120

#### **Proceedings**

**123(1)** A disputes resolution tribunal shall inquire into the matters in dispute and shall endeavour to effect a settlement.

(2) A disputes resolution tribunal may determine its own procedure.

(3) If a party to proceedings before a disputes resolution tribunal fails to attend or to be represented, the tribunal may proceed as if the party had attended or had been represented.

1988 cL-1.2 s121

#### **Majority award**

**124** An award of a majority of the members of a disputes resolution tribunal is an award of the disputes resolution tribunal,



but if there is no majority, the award of the chair is the award of the disputes resolution tribunal.

1988 cL-1.2 s122

### **Powers of disputes resolution tribunals**

#### **125(1)** Disputes resolution tribunals

- (a) may accept any oral or written evidence they consider proper, whether admissible in a court of law or not,
- (b) are not bound by the laws of evidence applicable to judicial proceedings, and
- (c) may summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce the documents and things that the tribunals consider requisite to the full investigation and consideration of matters within their jurisdiction in the same manner as a court of record in civil cases.

**(2)** If any person fails to comply with an order of a tribunal under subsection (1)(c), or conducts himself or herself in a manner that may be in contempt of the tribunal or its proceedings, the tribunal may apply to the Court for an order directing compliance with the tribunal's order, or restraining any conduct found by the Court to be in contempt of the tribunal or its proceedings.

**(3)** On an application under subsection (2), the Court may grant any order that, in the opinion of the Court, is necessary to enable the tribunal to carry out its duties.

1988 cL-1.2 s123

### **Filing and service of award**

**126(1)** When it makes an award, a disputes resolution tribunal shall

- (a) file a copy of it with the Minister, and
- (b) serve a copy of it on the parties to the dispute.

**(2)** The Minister may publish an award in any manner the Minister considers fit.

1988 cL-1.2 s124

### **Judicial review**

**127(1)** Subject to subsection (2), no decision, award, recommendation or proceeding of a disputes resolution tribunal shall be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court, whether by way of

injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the tribunal or any of its proceedings.

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

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

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

RSA 2000 cL-1 s127; 2009 c53 s92

## **Division 21**

### **Effect of a Collective Agreement**

#### **Effect of collective agreement**

**128(1)** The provisions of a collective agreement are binding on

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

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

1988 cL-1.2 s126

#### **Term of collective agreements**

**129** If a collective agreement is for an unspecified term, the agreement is deemed to provide for its operation for a term of one year from the date that it commenced to operate.

1988 cL-1.2 s127

**Bridging of collective agreements**

**130(1)** When notice to commence collective bargaining has been served under this Act, a collective agreement that applies to the parties at the time of service of the notice is deemed to continue to apply to the parties, notwithstanding any termination date in the agreement, until

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

**(2)** If a strike or lockout commences under Division 13, a collective agreement is deemed to continue to apply under subsection (1) during that strike or lockout in respect of any designated essential services workers, subject to any changes or permitted changes described in the essential services agreement.

RSA 2000 cL-1 s130;2016 c10 s16

**Signing of collective agreement**

**131(1)** Subject to this section, when the terms and conditions to be included in a collective agreement have been settled, each of the parties who bargained collectively shall sign the collective agreement.

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

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

1988 cL-1.2 s129

**Filing collective agreement**

**132** Each of the parties to a collective agreement shall on its execution forthwith file one copy with the Director.

1988 cL-1.2 s130

**Collective agreement declared void**

**133(1)** Any collective agreement entered into between an employer or an employers' organization and a trade union may be declared by the Board to be void when in its opinion the administration, management or policy of the trade union is

- (a) dominated by an employer, or

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

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

- (a) resulted from picketing of the place of employment of the employees affected or elsewhere, or
- (b) is by an employer whose administration, management or policy is
  - (i) dominated by a trade union, or
  - (ii) influenced by a trade union so that the employer's fitness to bargain collectively is impaired.

1988 cL-1.2 s131

## **Division 22**

### **Collective Agreement Arbitration**

#### **Definition**

**134** For the purpose of this Division, "collective agreement" includes a settlement under section 81 or 82.

1988 cL-1.2 s132

#### **Requisites of collective agreement**

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

- (a) as to the interpretation, application or operation of the collective agreement,
- (b) with respect to a contravention or alleged contravention of the collective agreement, and
- (c) as to whether a difference referred to in clause (a) or (b) can be the subject of arbitration

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

1988 cL-1.2 s133

#### **Model clauses**

**136** If a collective agreement does not contain the provisions required under section 135, the collective agreement is deemed to

contain those of the following provisions in respect of which it is silent:

- (a) *If a difference arises between the parties to or persons bound by this collective agreement as to the interpretation, application, operation or contravention or alleged contravention of this agreement or as to whether such a difference can be the subject of arbitration, the parties agree to meet and endeavour to resolve the difference.*
- (b) *If the parties are unable to resolve a difference referred to in clause (a), either party may notify the other in writing of its desire to submit the difference to arbitration.*
- (c) *The notice referred to in clause (b) shall*
  - (i) *contain a statement of the difference, and*
  - (ii) *specify the name or a list of names of the person or persons it is willing to accept as the single arbitrator.*
- (d) *On receipt of a notice referred to in clause (b), the party receiving the notice,*
  - (i) *if it accepts the person or one of the persons suggested to act as arbitrator, shall, within 7 days, notify the other party accordingly, and the difference shall be submitted to the arbitrator, or*
  - (ii) *if it does not accept any of the persons suggested by the party sending the notice, shall, within 7 days, notify the other party accordingly and send the name or a list of names of the person or persons it is willing to accept as the single arbitrator.*
- (e) *If the parties are unable to agree on a person to act as the single arbitrator, either party may request the Director in writing to appoint a single arbitrator.*
- (f) *The arbitrator may, during the arbitration, proceed in the absence of any party or person who, after notice, fails to attend or fails to obtain an adjournment.*
- (g) *The arbitrator shall inquire into the difference and issue an award in writing, and the award is final and binding on the parties and on every employee affected by it.*
- (h) *The parties agree to share equally the expenses of the arbitrator.*

- (i) *Except as permitted in clause (j), the arbitrator shall not alter, amend or change the terms or conditions of the collective agreement.*
- (j) *If the arbitrator by the arbitrator's award determines that an employee has been discharged or otherwise disciplined by an employer for cause and the collective agreement does not contain a specific penalty for the infraction that is the subject-matter of the arbitration, the arbitrator may substitute any penalty for the discharge or discipline that to the arbitrator seems just and reasonable in all the circumstances.*
- (k) *Where the arbitrator determines that an employee has been discharged or 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 may substitute for the discharge or discipline some other penalty that in the arbitrator's opinion is just and reasonable in the circumstances.*
- (l) *The arbitrator 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.*

RSA 2000 cL-1 s136;2017 c9 s132

**Appointment of single arbitrator**

**137(1)** If the parties to a collective agreement that provides for the appointment of a single arbitrator are unable to agree on a person to act as a single arbitrator within 14 days after the notice requiring that the matter go to arbitration, or any longer period that the collective agreement may contain for the selection of a single arbitrator, either party may, in writing, request the Director to appoint a single arbitrator.

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

1988 cL-1.2 s135

**Appointment of arbitration board**

**138(1)** When an arbitration board or other body is to be appointed or established pursuant to the terms of a collective agreement,

- (a) if either party to the collective agreement within 7 days after the written notice from the other party of the appointment of the other party's member or members fails or neglects to appoint a member or members, the Director shall, on the request of the other party, appoint a person or persons the

Director considers fit for the purpose and that person or those persons are deemed to be appointed by that party,

- (b) if the appointed members within 7 days from the date of the appointment of the last appointed member fail to agree on a person to act as a chair, the Director shall appoint a chair on the request of either party, and
- (c) if the chair or any member of the arbitration board refuses to act or is or becomes incapable of acting, a new chair or member may be appointed in the same manner as the original chair or member was appointed.

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

- (a) in the case of a person or persons appointed under subsection (1)(a) or (c), by the party who fails or neglects to appoint the person or persons, or
- (b) in the case of the chair appointed under subsection (1)(b) or (c), jointly by the parties.

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

1988 cL-1.2 s136

### **Ineligibility**

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

1988 cL-1.2 s137

### **Speeding up decision**

**140(1)** When a difference has been submitted to an arbitrator, arbitration board or other body, whether or not a hearing has been held, and one of the parties to the difference complains to the Board that the arbitrator, arbitration board or other body has failed to render an award within a reasonable time, the Board may, after consulting with the parties and the arbitrator, arbitration board or other body,

- (a) issue whatever directive it considers necessary in the circumstances to ensure that an award will be rendered in the matter without further undue delay, or
- (b) appoint a new arbitrator, arbitration board or other body to act in the place of the arbitrator, arbitration board or other body complained against.

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

1988 cL-1.2 s138

#### **Majority decision and award**

**141(1)** A decision of the majority of the members of an arbitration board or other body is the decision of the arbitration board or other body but, if there is no majority, the decision of the chair governs, and the chair's decision is deemed to be the award of the arbitration board or other body.

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

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

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

1988 cL-1.2 s139

#### **Effect of award on collective agreement**

**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.

RSA 2000 cL-1 s142;2017 c9 s133

#### **Powers of arbitrator**

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

(2) Without restricting the authority in subsection (1), an arbitrator, arbitration board or other body may

- (a) require any party to furnish particulars before or during a hearing;
- (b) require any party to produce documents or things that may be relevant to the matter and to do so before or during the hearing;
- (c) determine its own procedure and fix dates for the commencement and continuation of hearings;
- (d) summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath in the same manner as a court of record in civil cases;
- (e) administer oaths and affirmations;
- (f) give directions or make orders as appropriate to expedite proceedings and to prevent abuse of the arbitration process;
- (g) make an interim order, other than an interim order made prior to the conclusion of evidence and argument on the point, for the reinstatement of an employee to active employment where the employee has been discharged for cause;
- (h) determine any preliminary or jurisdictional issue at the outset or, without prejudice to any such objection, at any stage of the proceedings;

- (i) at any reasonable time enter any premises, other than a private dwelling, where work is being done or has been done by employees or in which an employer carries on business or where anything is taking place or has taken place concerning any difference submitted to the arbitrator, arbitration board or other body and inspect and view any work, material, machinery, appliance or article in the premises and question any person on oath in the presence of the parties or their representatives concerning any matter connected with the dispute;
- (j) authorize any person to do any things that the arbitrator, arbitration board or other body may do under clause (i) and to report to the arbitrator, arbitration board or other body on them;
- (k) receive and accept evidence and information on oath, affidavit or otherwise, including in videoconference or electronic form, as the arbitrator, arbitration board or other body in its discretion considers appropriate, whether admissible in a court of record in civil cases or not;
- (l) correct any clerical mistake, error or omission in any award;
- (m) at any stage of a proceeding, if the parties agree, assist the parties in resolving the matter in dispute without prejudice to the power of the arbitrator, arbitration board or other body to continue the proceedings with respect to the issues that have not been resolved.

**(3)** If any person fails to comply with an order of an arbitrator, arbitration board or other body, except as contained in a final award, or conducts himself or herself in a manner that may be in contempt of the arbitrator, arbitration board or other body or its proceedings, the arbitrator, arbitration board or other body may apply to the Court for an order directing compliance with the order of the arbitrator, arbitration board or other body, or restraining any conduct found by the Court to be in contempt of the arbitrator, arbitration board or other body or its proceedings.

**(4)** The chair of an arbitration board or other body has the authority to exercise the powers referred to in subsection (2)(a), (b), (c), (d), (e), (i), (j) and (l).

RSA 2000 cL-1 s143;2017 c9 s134

#### **Parties bound by award**

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

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

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

1988 cL-1.2 s142

#### **Review of award**

**145(1)** Subject to subsection (2), no award or proceeding of an arbitrator, arbitration board or other body shall be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the arbitrator, arbitration board or other body in any of the proceedings of the arbitrator, arbitration board or other body.

**(2)** A decision, order, directive, declaration, ruling or proceeding of an arbitrator, arbitration board or other body may be questioned or reviewed by way of an application for review to the Board seeking an order under subsection (3) if the application is filed with the Board no later than 30 days after the date of the decision, order, directive, declaration, ruling or proceeding or reasons in respect of it, whichever is later.

**(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.

(4) An application to the Board under subsection (2) must be on the record and made in accordance with the Board's rules of procedure.

RSA 2000 cL-1 s145;2009 c53 s92;2017 c9 s135

#### **Appeal to the Court of Appeal**

**145.1(1)** Subject to subsection (2), an appeal lies from a decision of the Board under section 145(3) to the Court of Appeal on a question of jurisdiction or law after permission to appeal has been obtained.

(2) An application for permission to appeal must be filed and served within 30 days from the day that the decision sought to be appealed from was made, or within a further period of time granted by the judge where, in the opinion of the judge, the circumstances warrant it.

(3) Notice of an application for permission to appeal must be given to the parties affected by the appeal and to the Board.

(4) Within 30 days from the date that the permission to appeal is obtained, the Board must forward to the Registrar of the Court of Appeal the record of the hearing, and its reasons for the decision.

(5) On permission to appeal being granted by a judge of the Court of Appeal, the appeal must proceed in accordance with the practice and procedure of the Court of Appeal.

2017 c9 s135

#### **Enforcement of award**

**146(1)** If an employers' organization, employer, bargaining agent or employee fails to comply with an award of an arbitrator or arbitration board or other body, an employers' organization, employer, bargaining agent or employee affected by the award may, after 30 days from the date on which the award is made or reasons are given in respect of it or by the date provided in it for compliance, whichever is the latest date, file a copy of the award with a clerk of the Court and, on filing, the directive is enforceable as a judgment or order of the Court.

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

RSA 2000 cL-1 s146;2009 c53 s92

## Division 23 Prohibited Practices

### Alteration of terms of employment

**147(1)** If a trade union has applied for certification, no employer affected by the application shall, except in accordance with an established custom or practice of the employer or with the consent of the trade union or in accordance with a collective agreement in effect with respect to the employees in the unit affected by the application, alter the rates of pay, any term or condition of employment or any right or privilege of any of those employees during the time between the date of the application and

- (a) the date of its refusal, or
- (b) 30 days after the date of certification.

**(2)** If a notice to commence collective bargaining has been served pursuant to section 59(1) within 30 days after the date of certification of the bargaining agent, no employer affected by the notice shall, except

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

alter the rates of pay, a term or condition of employment or a right or privilege of any employee represented by the bargaining agent or of the bargaining agent itself until 120 days after the date on which the notice is served.

**(3)** If a notice to commence collective bargaining has been served pursuant to section 59(2), no employer affected by the notice shall, except

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

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

to represent the employees is terminated or a strike or lockout commences under Division 13.

**(4)** If a strike or lockout is subject to an essential services agreement, the prohibitions in subsections (2) and (3) remain in effect during that strike or lockout in respect of any designated essential services workers, subject to any changes or permitted changes described in the essential services agreement.

RSA 2000 cL-1 s147;2016 c10 s17;  
2017 c9 s136

**Prohibited practices by employer, etc.**

**148(1)** No employer or employers' organization and no person acting on behalf of an employer or employers' organization shall

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

or

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

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

- (a) in respect of a trade union that is a bargaining agent for the employer's employees
  - (i) permits an employee or a representative of a trade union to confer with the employer during working hours or to attend to the business of the trade union during working hours without deduction in the computation of time worked by the employee and without deduction of wages in respect of the time so occupied,
  - (ii) provides free transportation to representatives of the trade union for purposes of collective bargaining, the administration of a collective agreement and related matters, or
  - (iii) permits the trade union to use the employer's premises for the purposes of the trade union,
- (b) makes to a trade union donations to be used solely for the welfare of the members of the trade union and their dependants, or

- (c) expresses the employer's views so long as the employer does not use coercion, intimidation, threats, promises or undue influence.

1988 cL-1.2 s146

**148.1** and **148.2** Repealed 2017 c9 s137.

**Prohibited practices by employer, etc.**

**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,
  - (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
  - (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.

RSA 2000 cL-1 s149;2017 c9 s138



**Rights of employer**

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

1988 cL-1.2 s148

**Prohibited practice — failure to file collective agreement**

**150.1(1)** No employer, employers' organization or bargaining agent shall fail or neglect to file a collective agreement with the Director as required by section 132 within 30 days after entering into the agreement.

**(2)** An employer, employers' organization or bargaining agent does not contravene subsection (1) if the employer, employers' organization or bargaining agent has received confirmation from the Director that the agreement has already been filed with the Director within the required time.

2017 c9 c139

**Prohibited practices by trade union, etc.**

**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;
- (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.

RSA 2000 cL-1 s151;2008 c9 s9;  
2017 c9 s140

#### **Access to property by union representatives**

**151.1(1)** If employees reside on their employer's property or on property to which the employer or another person has the right to control access or entry, the Board may, on application by a trade union, direct the employer or other person to permit one or more representatives authorized in writing by the trade union to enter the property to attempt to persuade the employees to join a trade union

and, if the trade union acquires bargaining rights, after that to enter the property to conduct business of the trade union.

(2) A direction under subsection (1) may include a requirement that the employer, if there is no reasonable alternative available at or near the property, provide the representatives with food and lodging at the current price and of a similar kind and quality as that provided to the employees.

2017 c9 s141

#### **Access to property by Board and Board officers**

**151.2(1)** An employer, or a person on whose premises work is being carried out by an employer, or any person controlling access to those premises, shall

- (a) grant officers or members of the Board reasonable access to the premises for the purpose of carrying out any investigation, taking a vote, holding a meeting or carrying out any direction of the Board, and
- (b) provide a suitable portion of the employer's premises or the premises where employees are working at the disposal of the officers or members of the Board for a purpose referred to in clause (a).

(2) Where employees reside on the employer's property or on property to which the employer or another person has the right to control access or entry, the employer or other person must comply with subsection (1)(a) and (b) with respect to that property.

(3) An employer or another person referred to in subsection (2) must if there is no reasonable alternative available at or near the property, provide the officers or members of the Board with food and lodging at the current price and of a similar kind and quality as that provided to the employees.

(4) No person shall impede an officer or member of the Board in carrying out the officer's or member's duties in accordance with this section.

2017 c9 s141

#### **Prohibited practices by trade union, etc.**

**152(1)** No trade union or person acting on behalf of a trade union shall

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

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

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

- (a) the complainant presented an appeal to the trade union in accordance with the appeal procedure established by the trade union, and
- (b) the trade union failed to deal with the matter within 6 months of the date the complainant made that appeal.

(3) Subsection (2) does not apply when the Board is satisfied that

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

1988 cL-1.2 s150

#### **Fair representation**

**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.

(2) Subsection (1) does not render a trade union liable to an employee for financial loss to the employee if

- (a) the trade union acted in good faith in representing the employee, or
- (b) the loss was as the result of the employee's own conduct.

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

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

**(4)** Where a trade union has established or adopted an appeal or review process over representation issues that has been approved by the Board under subsection (6), no complaint shall be made except with the prior consent of the Board in respect of an alleged denial of fair representation by a trade union or a person acting on behalf of a trade union under subsection (1) unless

- (a) the complainant presented an appeal or application for review under an approved appeal or review process, and
- (b) the appeal or application for review remains outstanding for longer than is reasonable in the circumstances following the making of the complaint or if, on the conclusion of an appeal or application for review, the applicant still alleges a denial of fair representation and files a complaint with the Board within 45 days of being notified of the conclusion of the appeal or application for review.

**(5)** Where an appeal or application for review has concluded, the Board shall consider the results of the appeal or application for review process and its conclusions or results in assessing any complaint under subsection (1).

**(6)** The Board may approve an internal or external appeal or review process established or adopted by a trade union for the purpose of subsection (4) if the appeal or review process is sufficiently robust to

- (a) assess fairly the merits of any grievance,
- (b) investigate the grievance, and the sufficiency and quality of any prior investigation, and
- (c) assess an employee's rights
  - (i) under the *Alberta Human Rights Act*, including any duty to accommodate, or
  - (ii) under an enactment relating to employment matters.

RSA 2000 cL-1 s153;2017 c9 s142

**Dispute-related misconduct**

**154(1)** No employer, employers' organization, trade union or employee and no person acting on behalf of an employer, employers' organization, trade union or employee shall

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

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

1988 cL-1.2 s152

**Insurance and pension rights**

**155(1)** No employer or employers' organization and no person acting on behalf of an employer or employers' organization shall deny to any employee any pension rights or benefits or insurance rights or benefits to which the employee would be entitled but for

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

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

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

in the circumstances referred to in subsection (3).

(3) Subsection (2) applies where

- (a) the employee in a unit of employees of the employer ceases to work because the employees in the unit are locked out by the employer or because the employees in the unit are on a lawful strike, and
- (b) the trade union that was the bargaining agent for the employees in the unit at the time the lockout or strike commenced tenders, or attempts to tender, to the employer, for the duration of the lockout or strike, the premiums in respect of all the employees covered by the insurance scheme who are represented by the bargaining agent.

(4) In this section,

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

1988 cL-1.2 s153

## **Division 24 Miscellaneous**

### **Health, welfare and pension trusts**

**156(1)** Notwithstanding the *Trustee Act*, in any proceeding affecting a trust

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

a trustee is not personally liable for the trustee’s actions or decisions as trustee whether taken or made before or after the coming into force of this section, nor shall any such actions or decisions be varied or set aside unless it can be shown to the

satisfaction of the Court that the trustee failed to act honestly or in accordance with the purpose and intent of the trust agreement or instrument.

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

- (a) if, in the opinion of the majority of the trustees, it is difficult or impractical to otherwise validly amend the agreement or instrument and the majority has approved the proposed amendment, and
- (b) if the Court is satisfied that the proposed amendment is in the interests of the management or administration of the trust and is fair and reasonable.

1988 cL-1.2 s154

#### **Non-application of other Acts**

**157(1)** The *Arbitration Act* does not apply to an arbitration or other proceeding under this Act.

**(2)** The *Regulations Act* does not apply to rules made by the Board under section 12(2)(g) or to an order, decision, notice, directive, declaration, award, recommendation or certificate issued or made by the Board, a disputes resolution tribunal or an arbitrator, arbitration board or other body referred to in Division 22.

1988 cL-1.2 s155;1994 c19 s1

## **Division 25 Offences and Penalties**

#### **Specific offences**

**158** An employer, employee or other person who

- (a) contravenes or fails to comply with any request or notice of the Board, the Chair, a vice-chair or any other officer of the Board,
- (b) wilfully delays or obstructs an officer in the exercise of any power or duty given to the officer under this Act,
- (c) fails to produce any books, records, documents, papers, payrolls, contracts of employment or other record of employment that the employer, employee or other person is required to produce,



- (d) conceals or attempts to conceal an employee or seeks to prevent the employee from appearing before or being examined by an officer, or
  - (e) makes a complaint to the Board knowing it to be untrue,
- is guilty of an offence.

1988 cL-1.2 s156

**Penalties re prohibited lockouts**

**159(1)** An employer or employers' organization that commences or causes a lockout contrary to this Act is guilty of an offence and liable to a fine not exceeding \$1000 for each day that the lockout continues.

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

1988 cL-1.2 s157

**Penalties re prohibited strikes**

**160(1)** A trade union that causes a strike contrary to this Act is guilty of an offence and liable to a fine not exceeding \$1000 for each day that the strike continues.

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

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

1988 cL-1.2 s158

**General offence and penalty**

**161** Subject to sections 159 and 160, a person, employee, employer, employers' organization or trade union that contravenes or fails to comply with any provision of this Act or of any decision, order, directive, declaration or ruling made by the Board under this Act is guilty of an offence and liable

(a) in the case of a corporation, employers' organization or trade union, to a fine not exceeding \$100 000, or

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

RSA 2000 cL-1 s161;2008 c9 10

**Prosecutions**

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

1988 cL-1.2 s160

## **Part 2.1 Special Provisions Regarding Regional Health Authorities**

**Lieutenant Governor in Council regulations**

**162.1(1)** The Lieutenant Governor in Council may make regulations

- (a) providing for the establishment of region-wide functional bargaining units as bargaining units for the purposes of this Act for all regional health authorities and their employees who are represented by a bargaining agent;
- (b) governing the manner in which a bargaining agent and a receiving collective agreement are selected for each of the region-wide functional bargaining units, whether with or without a vote of employees, including, without limitation, regulations
  - (i) establishing types of collective agreements from which the receiving collective agreement for a region-wide functional bargaining unit will be selected;
  - (ii) respecting the manner of determining from which type of collective agreement the receiving collective agreement for a region-wide functional bargaining unit will be selected;
  - (iii) respecting the manner of determining which trade unions are eligible trade unions for the purposes of a vote by employees to select a bargaining agent for a region-wide functional bargaining unit, and respecting the circumstances under which such a vote may or must be conducted;
  - (iv) respecting the conduct of votes on any issue related to the selection of a bargaining agent or a receiving collective agreement;
- (c) providing for the continuation of existing collective agreements;
- (d) requiring employers and bargaining agents selected under this Part to bargain collectively in good faith and to make

every reasonable effort to negotiate amendments to the receiving collective agreements selected under this Part so that the receiving collective agreements will contain terms and conditions of employment for all employees in the region-wide functional bargaining unit, and governing the means by which that is to be accomplished, including, without limitation, the method by which contentious issues between the parties are to be resolved;

- (e) authorizing the Board to hear and determine a complaint that a party has failed to comply with a regulation under clause (d) and to remedy that failure in the same manner as it may remedy a failure to comply with section 60;
- (f) authorizing the Board to make binding determinations as to terms and conditions to be included in a receiving collective agreement where the parties are unwilling or unable to do so;
- (g) authorizing the Board to deem affiliated local unions of the same parent trade union to be one trade union for the purposes of this Part;
- (h) requiring affiliated local unions of the same parent trade union to act as a single trade union for the purposes of this Act and to adopt rules and procedures for that purpose;
- (i) authorizing the Board to do anything that a trade union, employer or employers' organization is required to do under the regulations or by the Board and fails or refuses to do;
- (j) providing for any transitional matters the Lieutenant Governor in Council considers necessary to ensure the transition from the implementation of this Part to collective bargaining under this Act generally.

**(2)** A power or duty conferred on the Board in regulations under this section shall be construed as being in addition to the other powers and duties of the Board under this Act and not as limiting those powers and duties unless the contrary intention is expressly stated in the regulations or arises by necessary implication.

**(3)** The Board may hear any matter or conduct any business under this Part through the chair or a vice-chair sitting alone.

**(4)** Where this Act or the regulations provide that the Board may do anything or exercise any power on the application of any person or body, the Board may, for the purposes of this Part and the regulations, also exercise that power on its own motion.

(5) Regulations under this section may be expressed to come into force on a date before the date on which they are filed, but not earlier than April 1, 2003.

2003 c6 s5

#### **Disentitlement to severance and termination pay**

**162.2(1)** In this section, “prescribed entity” means a regional health authority, the Alberta Mental Health Board, the Alberta Cancer Board or any other entity.

(2) Notwithstanding any other enactment or the terms of any collective agreement, the Lieutenant Governor in Council may make regulations providing that, in the circumstances and subject to the terms and conditions set out in the regulations, employees of a prescribed entity are not entitled to severance pay, termination pay or other compensation as a result of a change in governance or restructuring of the prescribed entity.

2003 c6 s5

### **Part 3 Construction Industry Labour Relations**

#### **Division 1 Application**

##### **Application**

**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,

- (a) “group of trade unions” means one or more trade unions grouped together in an application for a registration certificate or in a registration certificate;
- (b) “part of the construction industry” means that part of the construction industry that operates within a particular trade jurisdiction and a particular sector;
- (c) “sector” means a division of the construction industry specified in the regulations as determined by work characteristics;
- (d) “trade jurisdiction” means a trade jurisdiction established by the Board.

(3) The Lieutenant Governor in Council may make regulations establishing sectors for the purposes of subsection (2).

1988 cL-1.2 s161

## **Division 2**

### **Registered Employers' Organizations**

#### **Filing of constitution, etc., of employers' organization**

**164(1)** In accordance with the rules and procedures established by the Board, an employers' organization that intends to apply to become a registered employers' organization shall file with the Board

- (a) a copy of its constitution, bylaws or other constitutional documents, and
- (b) the names and addresses of its president, secretary, officers and other organizers and the names of its officers who are authorized to sign collective agreements.

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

1988 cL-1.2 s162

#### **Collection of dues**

**165(1)** A registered employers' organization may require an employer who is bound by a collective agreement entered into by the registered employers' organization or on whose behalf the registered employers' organization bargains collectively to pay dues to the registered employers' organization if the dues

- (a) are uniformly required to be paid by all members to the registered employers' organization, and
- (b) are reasonably related to the services performed by the registered employers' organization in respect of its duties under this Act.

(2) If an employer fails to pay the dues required under subsection (1), the dues are a debt payable by the employer to the registered employers' organization and may be collected by civil action.

(3) This section does not restrict the ability of a registered employers' organization to establish and collect dues from its members in addition to the dues referred to in subsection (1).

1988 cL-1.2 s163

### Division 3 Registration

#### Application for registration

**166** An employers' organization may apply to the Board to be registered as the agent for collective bargaining for the employers in respect of a part of the construction industry that the employers' organization considers appropriate for collective bargaining.

1988 cL-1.2 s164

#### Evidence in support of application

**167(1)** An application for registration shall specify that part of the construction industry for which registration is sought, and the trade unions that the employers' organization seeks to have included within the scope of the registration.

**(2)** An application for registration shall be supported by evidence, in a form satisfactory to the Board, that the employers' organization has as members at least 40% of the employers engaged in that part of the construction industry to which the application relates with whom one or more of the trade unions in the group of trade unions specified in the application have established the right of collective bargaining.

1988 cL-1.2 s165

#### Inquiry into registration application

**168(1)** Before granting an application for registration, the Board shall satisfy itself, after any investigation that it considers necessary, that

- (a) the applicant is an employers' organization,
- (b) the application is timely,
- (c) the part of the construction industry specified in the application, or a part reasonably similar to it, is an appropriate part for the purposes of collective bargaining,
- (d) the trade union or trade unions specified in the application are appropriately grouped in one registration certificate for the purposes of collective bargaining,
- (e) the employers engaged in the part of the construction industry who are subject to a bargaining relationship with the trade union have voted, at a representation vote conducted by the Board, to select the employers' organization as their agent for collective bargaining,
- (f) the application is not prohibited by section 174, and

- (g) it is otherwise appropriate to grant the registration after consideration of any other factors that the Board considers relevant.

**(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 registration, the employers' organization had as members at least 40% of the employers engaged in that part of the construction industry to which the application relates with whom one or more of the trade unions in the group of trade unions specified in the application have established the right of collective bargaining.

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

1988 cL-1.2 s166

#### **Determining employers affected by application**

**169(1)** For the purpose of determining whether employers engaged in the part of the construction industry in respect of whom a trade union has established the right of collective bargaining are members of the employers' organization applying for registration, the Board may fix a period of time during which any employer so engaged is deemed to be an employer for the purposes of the application.

**(2)** In any inquiry into an application for registration, the Board may

- (a) determine which employers come within or should be excluded from the part of the construction industry,
- (b) alter or amend the trade jurisdiction applied for,
- (c) alter or amend the grouping of trade unions applied for, and
- (d) do any other things it considers appropriate.

**(3)** When required to do so by the Board, a trade union shall notify the Board in writing of any bargaining relationship with an employer who is affected by a registration certificate or an application for registration whether that relationship is created by the signing by the trade union of

- (a) a collective agreement,
- (b) an agreement providing for voluntary recognition of the trade union, or

- (c) an agreement to be bound by the terms and conditions of a collective agreement.

1988 cL-1.2 s167

**Timeliness of application for registration**

**170(1)** No application for registration shall be made without the Board's consent until at least 60 days after the applicant has complied with section 164(1)(a).

**(2)** An application for registration may be made by an employers' organization at any time except

- (a) when the majority of employers who would be affected by the application and the trade union named in the application are bargaining collectively, or
- (b) in the 10-month period preceding the end of the term of the collective agreement between the trade union and the majority of the employers who would be affected by the application.

**(3)** The Board may refuse an application if, in the opinion of the Board, the application is untimely considering any seasonal factors affecting the work related to the part of the construction industry applied for.

1988 cL-1.2 s168;1994 c23 s23

**Appropriate parts for collective bargaining**

**171(1)** In deciding whether a part of the construction industry is appropriate for collective bargaining, the Board shall establish trade jurisdictions within the sectors in a manner it considers appropriate for collective bargaining.

**(2)** Registration certificates shall be granted for a part of the construction industry on a Province-wide basis for a trade jurisdiction within a sector of the construction industry.

1988 cL-1.2 s169

**Grouping of trade unions**

**172** The Board, in deciding which trade unions to group together in respect of a registration certificate, shall have regard to

- (a) the Province-wide nature of bargaining,
- (b) the fact that local trade unions are affiliated with, or are locals of, one or more trade union organizations, and
- (c) the ability of the trade unions to bargain collectively as a group and to administer a collective agreement as a group,



and any other matter the Board considers relevant.

1988 cL-1.2 s170

#### **Representation vote**

**173(1)** A representation vote of employers affected by an application for registration shall be conducted by the Board by secret ballot at a time to be fixed by the Board.

**(2)** A representation vote shall be decided on the basis of a majority of the ballots cast by employers in the part of the construction industry subject to one or more bargaining obligations with the trade union or the trade unions within the group of trade unions.

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

1988 cL-1.2 s171

#### **Registered employers' organization dominated by trade union**

**174** An employers' organization shall not be registered as an agent for collective bargaining if its administration, management or policy is, in the opinion of the Board,

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

1988 cL-1.2 s172

#### **Issue of registration certificate**

**175(1)** When the Board is satisfied with respect to the matters referred to in section 168 and satisfied, after considering any other relevant matter, that the employers' organization should be registered, the Board shall grant a registration certificate to the applicant employers' organization.

**(2)** The registration certificate shall state

- (a) the name of the registered employers' organization,
- (b) the name of the trade union or trade unions in the group of trade unions with which the registered employers' organization may bargain collectively, and
- (c) the part of the construction industry in respect of which the registered employers' organization and the group of trade unions may bargain collectively.

- (3) When 2 or more trade unions are named in a registration certificate as a group of trade unions, this Act applies to the group of trade unions with respect to the registration, the settlement of disputes, strikes or lockouts, and the administration of the collective agreement as if they were a single trade union.
- (4) When the Board grants a registration certificate in respect of a group of trade unions, the trade unions in the group shall forthwith establish rules and procedures for the administration of the registration certificate, collective bargaining in respect of that registration certificate and the administration of any collective agreements entered into with the registered employers' organization.
- (5) If the group of trade unions fails to establish adequate rules and procedures in accordance with subsection (4), the Board may establish rules and procedures and those rules and procedures are binding on each trade union within the group of trade unions.
- (6) An application to the Board to establish rules and procedures under subsection (5) may be made by the registered employers' organization, any employer bound by the registration certificate who is adversely affected by any failure to establish adequate rules and procedures, or any trade union within the group of trade unions.

1988 cL-1.2 s173

**Related trade unions**

- 175.1(1)** In this section, "registration collective agreement" means a collective agreement entered into in accordance with this Part as provided for in section 178.
- (2) This section applies where
- (a) a local trade union is subject to a registration certificate in respect of a registered employers' organization, and
  - (b) the parent trade union of the local trade union referred to in clause (a), or another local trade union of that same parent trade union, enters into an agreement providing terms and conditions of employment to apply to employees for work within the trade or craft jurisdiction, and within the territorial jurisdiction, of the local trade union referred to in clause (a).
- (3) Subject to a declaration under subsection (4), the parties to an agreement referred to in subsection (2)(b), including the parent trade union or the other local trade union of the parent trade union, are bound by the registration certificate and the terms of the

registration collective agreement in the same manner as if the local trade union referred to in subsection (2)(a) had entered into the agreement referred to in subsection (2)(b) on its own behalf.

**(4)** The Board may, on the application of any affected person or party, declare that subsection (3) does not apply to the agreement referred to in subsection (2)(b), if the Board is satisfied that the agreement is an agreement whose terms would not undermine registration bargaining or the registration collective agreement.

2017 c9 s143

#### **Effect of registration**

**176(1)** On the issuance of a registration certificate, the employers' organization named in it becomes a registered employers' organization and has exclusive authority to bargain collectively with the group of trade unions named in the registration certificate on behalf of

- (a) all employers actually or customarily engaged in the part of the construction industry set out in the registration certificate with whom any of the trade unions in the group of trade unions has established, or subsequently establishes, the right of collective bargaining, and
- (b) any other employer actually or customarily engaged in the construction industry who is party to an agreement, notwithstanding anything in that agreement, that provides that the employer shall comply with any of the terms of a collective agreement entered into by any of the trade unions in the group of trade unions in respect of work in the part of the construction industry set out in the registration certificate, but only while that agreement to comply remains in force.

**(2)** Subsection (1) applies to employers only to the extent of their collective bargaining obligations with a trade union.

1988 cL-1.2 s174

#### **Directive re collective agreement**

**177(1)** When a registration certificate has been issued to an employers' organization, the Board, on the application of

- (a) the registered employers' organization,
- (b) a trade union named in the registration certificate, or
- (c) an employer referred to in section 176,

may consider whether a collective agreement entered into before the issuance of the registration certificate should continue or

terminate or, if there is no collective agreement in effect, whether an interim collective agreement should be entered into.

**(2)** The Board after any inquiry it considers necessary may, with respect to an application made under subsection (1),

- (a) direct that any collective agreement entered into before the issuance of the registration certificate
  - (i) continue, under conditions specified by the Board, or
  - (ii) terminate, either immediately or at a future date,
- and
- (b) make any other direction it considers necessary.

1988 cL-1.2 s175

#### **Collective agreement between employers' organization and trade union**

**178** When a registered employers' organization and a group of trade unions enter into a collective agreement, the collective agreement is binding on

- (a) the employers referred to in section 176,
- (b) the employees of the employers referred to in clause (a),
- (c) the registered employers' organization insofar as the terms and conditions of the collective agreement apply to it, and
- (d) the group of trade unions and each trade union within the group.

1988 cL-1.2 s176

#### **Notification of creation of bargaining relationship**

**179** Within 30 days after the signing by a trade union of

- (a) a collective agreement,
- (b) an agreement providing for voluntary recognition of the trade union, or
- (c) an agreement to be bound by the terms and conditions of a collective agreement

with an employer referred to in section 176, the trade union shall notify the Board and the registered employers' organization in writing of the creation of a bargaining relationship with the employer.

1988 cL-1.2 s177

## **Division 4 Successor Registered Employers' Organizations and Mergers**

### **Mergers and transfers**

**180(1)** No registered employers' organization shall

- (a) merge or amalgamate with another registered employers' organization, or
- (b) transfer its rights under a registration certificate to any other employers' organization.

**(2)** Notwithstanding subsection (1), the Board may authorize a registered employers' organization to merge or amalgamate with another registered employers' organization or transfer its rights under a registration certificate if the Board considers it necessary because of an alteration or amendment

- (a) in the designation of a sector or trade jurisdiction, or
- (b) in the grouping of trade unions in a registration certificate.

1988 cL-1.2 s178

## **Division 5 Termination of Registration**

### **Application for cancellation of registration certificate**

**181(1)** When an employers' organization has been registered by the Board, an application for the cancellation of the registration certificate may be made to the Board by the registered employers' organization, an employer affected by the registration certificate, or a trade union.

**(2)** An application under subsection (1) may be made

- (a) after 10 months has elapsed since the date of issue of the registration certificate, if no notice to commence collective bargaining has been served by either the registered employers' organization or the bargaining agent,
- (b) after 10 months has elapsed since notice to commence collective bargaining was served by the employers' organization or the bargaining agent and no collective agreement has been concluded, or
- (c) if a collective agreement between the registered employers' organization and the bargaining agent is in force, at any time

in the 2 months prior to the end of the term of the collective agreement.

(3) If a strike or lockout is in effect, no application under subsection (1) shall be made except with the consent of the Board.

1988 cL-1.2 s179

### **Cancellation of registration certificate**

**182(1)** On receipt of an application for cancellation of a registration certificate of a registered employers' organization, the Board may determine the wishes of the employers in respect of whom the employers' organization is registered in any manner that the Board considers adequate.

(2) The Board, after considering an application for cancellation of a registration certificate of a registered employers' organization,

- (a) shall cancel the registration certificate if it is satisfied that the majority of employers affected by the registration certificate no longer wish the registered employers' organization to bargain collectively on their behalf, and
- (b) may cancel the registration certificate if it is satisfied that
  - (i) there have been no employers affected by the registration certificate engaged in the part of the construction industry for a period of at least 3 years, or
  - (ii) the majority of employers affected by the registration certificate have not employed employees in the part of the construction industry for a period of at least 3 years.

(3) When a registration certificate is cancelled under subsection (2),

- (a) each trade union in the group of trade unions retains all rights of collective bargaining existing in respect of the individual employers with whom it has established the right of collective bargaining,
- (b) any collective agreement in effect between the trade unions in the group of trade unions and the registered employers' organization continues to be binding, to the extent of their bargaining relationships, on
  - (i) every employer who was bound by the collective agreement at the time of cancellation of the registration certificate, and

- (ii) each trade union in the group of trade unions and every employee bound by the collective agreement,
- and
- (c) the employers' organization ceases to be registered as an agent for collective bargaining on behalf of the employers.
- 1988 cL-1.2 s180

## **Division 6 Collective Bargaining**

### **Expiry of collective agreement**

**183** Subject to section 130, a collective agreement entered into by a party to whom this Part applies shall provide for the expiry of the agreement on April 30 calculated biennially from April 30, 1989.

1988 cL-1.2 s181

### **Consolidation order**

**184(1)** Prior to the commencement of each biennial round of collective bargaining with respect to registered employers' organizations and groups of trade unions affected by registration certificates, the Board shall determine which registered employers' organizations and which groups of trade unions shall be consolidated for the purposes of the ensuing round of collective bargaining.

**(2)** In determining which groups of trade unions and which registered employers' organizations should be consolidated under subsection (1), the Board shall consider

- (a) whether the groups of trade unions have an affiliation with a central body,
- (b) the likelihood of common industrial action and serial strikes and lockouts, and
- (c) the sectors within the construction industry.

**(3)** The Board shall issue an order specifying which registered employers' organizations and which groups of trade unions are consolidated for the next ensuing round of collective bargaining.

1988 cL-1.2 s182

### **Strike votes**

**185(1)** The Board shall supervise strike votes in respect of the construction industry subject to registration certificates on the basis of the consolidation order under section 184.

(2) A group of trade unions may apply to the Board for the supervision of a strike vote at any time after the expiry of the cooling-off period referred to in section 65(7) and after the expiry of any collective agreement previously in force with the registered employers' organization.

(3) The Board shall not supervise a strike vote with respect to a group of trade unions in a sector until the Board receives applications from at least 60% of all those groups of trade unions in a sector that the Board has consolidated under section 184 and that have not settled the terms of a collective agreement.

(4) The Board shall require a return from each group of trade unions participating in the consolidated vote showing

- (a) the number of persons entitled to vote and voting,
- (b) the number of votes in favour of strike action, and
- (c) the number of votes opposed to strike action.

(5) The strike vote with respect to each of the groups of trade unions consolidated in the vote is deemed to have been not in favour of a strike unless

- (a) the votes in respect of at least 60% of the groups of trade unions result in a vote of at least 50% of the employees entitled to vote and voting in each of the groups of trade unions in favour of strike action, and
- (b) at least 60% of the employees entitled to vote and voting in the overall consolidated vote, vote in favour of strike action.

1988 cL-1.2 s183

### Strikes

**186(1)** Notwithstanding anything in this Act, no trade union or group of trade unions named in a registration certificate, no person acting on behalf of such a trade union and no person employed in the construction industry who is affected by registration shall strike or cause a strike in respect of the construction industry unless the strike is permitted by this Division.

(2) A group of trade unions wishing to strike may do so only if

- (a) a strike vote has been supervised in accordance with section 185 and resulted in a vote in favour of strike action,
- (b) all those groups of trade unions that were involved in the consolidated strike vote and that have not settled the terms



of a collective agreement serve notice to strike and strike at the same time, and

- (c) a strike notice is served on the registered employers' organizations in accordance with section 78.

1988 cL-1.2 s184

### **Lockout votes**

**187(1)** The Board shall supervise lockout votes in respect of the construction industry subject to registration certificates on the basis of the consolidation order under section 184.

**(2)** A registered employers' organization may apply to the Board for the supervision of a lockout vote at any time after the expiry of the cooling-off period referred to in section 65(7) and after the expiry of any collective agreement previously in force with that registered employers' organization.

**(3)** The Board shall not supervise a lockout vote with respect to a registered employers' organization until the Board receives applications from 60% of those registered employers' organizations that the Board has consolidated under section 184 and that have not settled the terms of a collective agreement.

**(4)** The Board shall require a return from each registered employers' organization participating in the consolidated vote showing

- (a) the number of employers in each registered employers' organization entitled to vote and voting,
- (b) the number of votes in favour of lockout action, and
- (c) the number of votes opposed to lockout action.

**(5)** The lockout vote with respect to each of the groups of registered employers' organizations consolidated in the vote is deemed to have been not in favour of a lockout unless

- (a) the vote in respect of at least 60% of the registered employers' organizations result in a vote of at least 50% of the employers entitled to vote and voting in each registered employers' organization in favour of lockout action, and
- (b) at least 60% of the votes cast by employers entitled to vote and voting in the overall consolidated vote are in favour of lockout action.

1988 cL-1.2 s185;1989 c17 s11

**Lockouts**

**188(1)** Notwithstanding anything in this Act, no registered employers' organization or employer referred to in section 176, and no person acting on behalf of a registered employers' organization or an employer referred to in section 176 shall lock out or cause a lockout in respect of the construction industry unless the lockout is permitted by this Division.

**(2)** A group of registered employers' organizations wishing to lock out may do so only if

- (a) a lockout vote has been supervised in accordance with section 187 and resulted in a vote in favour of lockout action,
- (b) all those registered employers' organizations that were involved in the consolidated lockout vote and that have not settled the terms of a collective agreement serve notice to lock out and lock out at the same time, and
- (c) a lockout notice is served on the groups of trade unions in accordance with section 78.

1988 cL-1.2 s186

**Dispute resolution**

**189(1)** When 75% of the groups of trade unions and registered employers' organizations in the sector have entered into collective agreements,

- (a) the Minister shall refer the remaining items in dispute to the construction industry disputes resolution tribunal if the Minister is requested to do so by one or more of the parties that have not entered into collective agreements, or
- (b) the Minister may on the Minister's own motion refer the remaining items in dispute to the construction industry disputes resolution tribunal.

**(2)** When the Minister refers items in dispute to the construction industry disputes resolution tribunal under subsection (1), any strike or lockout in existence between the parties is deemed to terminate and the terms and conditions of employment that applied to the parties immediately prior to the strike or lockout are deemed to continue.

1988 cL-1.2 s187

**Referral of dispute**

**190(1)** When the Minister refers a dispute to the construction industry disputes resolution tribunal, the tribunal shall inquire into

the dispute and endeavour to assist the parties to resolve the dispute.

(2) If the dispute is not settled by agreement, the tribunal shall

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

(3) The award of the construction industry disputes resolution tribunal is binding on the parties to the dispute and shall be incorporated into a collective agreement.

(4) The construction industry disputes resolution tribunal shall implement any method or combination of methods of arbitration that the Minister directs it to implement to resolve any or all of the items in dispute.

(5) Without restricting the generality of subsection (4), the method or combination of methods of arbitration implemented under that subsection may include the method of arbitration known as “final offer selection”.

1988 cL-1.2 s188

#### **Construction industry disputes resolution tribunal**

**191(1)** The Minister may establish a construction industry disputes resolution tribunal.

(2) The Minister may, with respect to the construction industry disputes resolution tribunal,

- (a) appoint or provide for the appointment of one or more persons as its members, and
- (b) if more than one person is appointed, designate a chair.

(3) The persons appointed as members of the construction industry disputes resolution tribunal have the powers, duties and immunities of a commissioner under the *Public Inquiries Act*.

(4) The Minister may prescribe the remuneration and expenses to be paid to the members of the construction industry disputes resolution tribunal.

1988 cL-1.2 s189

#### **Construction common employer declarations**

**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.

(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.

1988 cL-1.2 s190

## **Division 7**

### **Co-ordination of Bargaining in Sectors of the Construction Industry**

#### **Co-ordination of bargaining in sectors of the construction industry**

**193(1)** The Minister, if the Minister is satisfied that an organization is an appropriate organization to co-ordinate collective bargaining in the construction industry,

- (a) may designate the organization as a construction industry employee co-ordinating agency or a construction industry employer co-ordinating agency, as the case may be, and
- (b) may specify that sector of the construction industry in respect of which the organization is designated as the co-ordinating agency.

(2) An organization designated under subsection (1)

- (a) shall not participate directly in collective bargaining between employers, employers' organizations and trade unions, and

- (b) has no authority to bind an employer, employers' organization or trade union in the course of its activities as a co-ordinating agency under this section.

1988 cL-1.2 s191

## **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, 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).

1988 cL-1.2 s192

#### **Application for authorization**

**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.

1988 cL-1.2 s193

#### **Designation of project**

**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,
- (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.

1988 cL-1.2 s194

### **Collective bargaining by principal contractor and trade unions**

**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

- (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.

1988 cL-1.2 s195

#### **Persons bound by collective agreement**

**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
- (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.

1988 cL-1.2 s196

**Signatures on and duration of collective agreement**

**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.

1988 cL-1.2 s197

#### **Effect of collective agreement**

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

- (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.

1988 cL-1.2 s198

#### **Application of other provisions of Act**

**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

- (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.

1988 cL-1.2 s199

### **Division 9 Work Jurisdiction Disputes in the Construction Industry**

#### **Alberta Impartial Jurisdictional Disputes Board**

**202(1)** The Minister may make any regulations that the Minister considers necessary for the purpose of effecting the final and binding settlement of differences arising in the construction industry with respect to the assignment of work to members of a trade union or to workers of a particular trade, craft or class.

**(2)** Without restricting the power of the Minister under subsection (1), the Minister may, by regulation,

- (a) establish or provide for the establishment of the Alberta Impartial Jurisdictional Disputes Board;
- (b) appoint or nominate or provide for the appointment or nomination of members to the Alberta Impartial Jurisdictional Disputes Board, or provide a method by which the members are appointed;
- (c) prescribe the terms of office of all or some of the members of the Alberta Impartial Jurisdictional Disputes Board either specifically or generally;
- (d) prescribe or provide for the establishment of rules of procedure for the conduct of business coming before the Alberta Impartial Jurisdictional Disputes Board;

(e) govern the manner in which investigations and inquiries are to be conducted by the Alberta Impartial Jurisdictional Disputes Board.

(3) The Minister may enter into an agreement with one or more persons or organizations to establish and operate or provide for the establishment and operation of the Alberta Impartial Jurisdictional Disputes Board for the purpose of effecting the final and binding settlement of differences referred to in subsection (1).

(4) A person or organization may enter into an agreement to establish and operate the Alberta Impartial Jurisdictional Disputes Board for the purposes referred to in subsection (1), but the Board so established

- (a) does not become effective for the purposes of this Division until the Minister approves the agreement, and
- (b) remains effective for the purposes of this Division only while the Minister's approval under clause (a) is unrevoked.

1988 cL-1.2 s200

#### Reference of difference to Board

**203** If, after the establishment of the Alberta Impartial Jurisdictional Disputes Board, a difference arises in the construction industry following the assignment of work to members of a trade union or to workers of a particular trade, craft or class, a party to the difference who wishes it resolved shall refer the difference to the Alberta Impartial Jurisdictional Disputes Board for its decision.

1988 cL-1.2 s201

#### Judicial review

**204(1)** Subject to subsection (2), no decision, recommendation or proceeding of the Alberta Impartial Jurisdictional Disputes Board shall be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made or process entered or proceedings taken in any court, whether by way of injunction, declaratory judgment, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the Alberta Impartial Jurisdictional Disputes Board or any of its proceedings.

(2) A decision, recommendation or proceeding of the Alberta Impartial Jurisdictional Disputes Board may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the application is filed with the Court no later than 30 days after the date of the decision, recommendation or proceeding or reasons in respect of it, whichever is later.

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

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

RSA 2000 cL-1 s204;2009 c53 s92

#### **Enforcement of Board's decision**

**205** A decision of the Alberta Impartial Jurisdictional Disputes Board may be filed by an employer, employers' organization or trade union affected by the decision with the clerk of the Court and, on filing, the decision is enforceable as a judgment or order of the Court.

1988 cL-1.2 s203

#### **Reconsideration**

**206** On the application of a party to a difference that was the subject of a decision of the Alberta Impartial Jurisdictional Disputes Board, the Alberta Impartial Jurisdictional Disputes Board may, whether or not it has previously made a decision with respect to the matter,

- (a) reconsider a matter, or
- (b) hear new evidence with respect to a matter previously heard by it,

and may revoke or amend a former decision or may replace its decision with another.

1988 cL-1.2 s204

## **Part 4 Transitional**

#### **Transitional**

**207(1)** All applications, proceedings, actions and inquiries commenced under the *Labour Relations Act*, RSA 1980 cL-1.1, shall be continued to their conclusion and treated for all purposes as if this Act had not come into force and the *Labour Relations Act* had remained in force.

**(2)** All agreements, instruments and other documents filed with the Minister or the Board under the *Labour Relations Act*, RSA 1980 cL-1.1, are deemed to have been filed under this Act.

- (3) No notice under section 43 is permitted with respect to a collective agreement entered into as the result of voluntary collective bargaining if that collective agreement is in force on November 28, 1988.
- (4) On November 28, 1988, the Board shall issue a certificate to replace each certificate subsisting under the *Labour Relations Act*, RSA 1980 cL-1.1.
- (5) In issuing replacement certificates under subsection (4), the Board may amend the bargaining unit descriptions contained in the original certificate in order to
- (a) clarify the geographic scope of the unit description where that scope is referred to in the certificate but not in the unit description,
  - (b) delete words excluding persons who are in any event excluded by the operation of this Act, or
  - (c) give consistency to the wording of bargaining unit descriptions without altering the substantive description of the unit.
- (6) In issuing replacement certificates under subsection (4), the Board may, with the consent of the parties, amend the name of the trade union or the employer to reflect the current names of the parties where, in the opinion of the Board, it is appropriate to do so.
- (7) Notwithstanding subsection (4), the Board is not required to issue a replacement certificate where it has reason to believe that the employer or the trade union has ceased to exist or has not been in business for a substantial period of time.
- (8) Where the Board does not issue replacement certificates for the reasons specified in subsection (7), the certificate under the *Labour Relations Act*, RSA 1980 cL-1.1, is deemed to be revoked.
- (9) Notwithstanding subsection (8), any party to a certificate that is deemed to be revoked under that subsection may apply for the issuance of a replacement certificate at any time within 90 days from the date the party learns of the decision not to issue a replacement certificate, and on receipt of that application, the Board may inquire into the matter and, if in the opinion of the Board it is appropriate to do so, issue a replacement certificate.

1988 cL-1.2 s205

**Transitional re construction industry**

**208(1)** The Lieutenant Governor in Council may make regulations respecting collective bargaining in the construction industry for the

purpose of facilitating the transition from collective bargaining under the *Labour Relations Act*, RSA 1980 cL-1.1, and the *Construction Industry Collective Bargaining Act*, SA 1987 cC-22.3, to collective bargaining under this Act and, without restriction and notwithstanding the other provisions of this Act,

- (a) prescribing sectors;
- (b) prescribing trade jurisdictions;
- (c) prescribing employers' organizations registered under the *Labour Relations Act* that are deemed to be registered employers' organizations under this Act and prescribing any or all of the sector or sectors, trade jurisdictions and the trade unions with respect to which the registration relates;
- (d) prescribing collective agreements that are deemed to continue under this Act and prescribing any conditions with respect to that continuation;
- (e) empowering the Board to provide for transitional matters related to the construction industry including
  - (i) the modification of bargaining unit descriptions, certification and registration certificates, and
  - (ii) providing that any time restrictions under this Act do not apply in a particular case;
- (f) prescribing projects and collective agreements that are deemed to be projects and collective agreements under Division 8 of Part 3.

**(2)** Sectors and trade jurisdictions prescribed in the regulations under subsection (1) are deemed,

- (a) in the case of sectors, to be established by the Lieutenant Governor in Council under section 163(3), and
- (b) in the case of trade jurisdictions, to be established by the Board under section 171.

**(3)** The registration of an employers' organization that is not continued by the regulations under subsection (1) is deemed to terminate on November 28, 1988 or any later date or dates that may be prescribed by the Lieutenant Governor in Council.

**(4)** If parties were in a collective bargaining relationship in respect of work in the construction industry as of June 4, 1987

- (a) those parties are deemed to continue in that bargaining relationship until April 30, 1989, unless the bargaining rights of a party are sooner revoked by the Board,
- (b) any previous disputes between the parties are deemed to no longer exist, and
- (c) the parties may serve notice to commence collective bargaining and that notice is deemed to comply with section 59.

**(5)** For a period of one year from November 28, 1988 no declaration may made under section 192 with respect to any corporation, partnership, person or association of persons in the construction industry in respect of that industry that, immediately prior to November 28, 1988, was not

- (a) subject to an existing obligation to bargain collectively with a trade union in respect of terms and conditions of employment for employees employed in the construction industry, or
- (b) subject to a collective agreement or to a settlement with a trade union that encompasses work within the construction industry.

**(6)** Notwithstanding subsection (5), the Board may make declarations under section 192 with respect to an employer who becomes subject to an obligation to bargain collectively with a trade union in respect of terms and conditions of employment for employees employed in the construction industry, after the date the *Construction Industry Collective Bargaining Act, SA 1987 cC-22.3*, came into force.

**(7)** Where a registration certificate is continued by the regulations under subsection (1), the information required under section 169(3) must in any event be given to the Board within 90 days after the coming into force of that regulation.

1988 cL-1.2 s206













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