



Province of Alberta

# **PUBLIC SERVICE EMPLOYEE RELATIONS ACT**

Revised Statutes of Alberta 2000  
Chapter P-43

Current as of December 5, 2019

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer  
Suite 700, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668

E-mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Shop on-line at [www.qp.alberta.ca](http://www.qp.alberta.ca)

## Copyright and Permission Statement

Alberta Queen's Printer holds copyright on behalf of the Government of Alberta in right of Her Majesty the Queen for all Government of Alberta legislation. Alberta Queen's Printer permits any person to reproduce Alberta's statutes and regulations without seeking permission and without charge, provided due diligence is exercised to ensure the accuracy of the materials produced, and Crown copyright is acknowledged in the following format:

© Alberta Queen's Printer, 20\_\_.\*

\*The year of first publication of the legal materials is to be completed.

### 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:

2018 c21 s5 amends the Schedule by adding ss5 and 7.

### Regulations

The following is a list of the regulations made under the *Public Service Employee Relations Act* that are filed as Alberta Regulations under the Regulations Act.

<b>Alta. Reg.</b>	<i>Amendments</i>
-------------------	-------------------

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

Public Service Employee Relations .....	183/2019
---	----------

# **PUBLIC SERVICE EMPLOYEE RELATIONS ACT**

## Chapter P-43

### *Table of Contents*

- 1 Definitions
- Part 1  
Application**
- 2 Application
- Part 2  
Powers of Board**
- 3 Powers of Board
- Part 3  
Trade Unions and Bargaining Units**
- Division 1  
Trade Unions**
- 4 Filing of constitution, etc., of trade union
- 5 Disclosure of information
- 6 Status of trade unions
- 7 Expulsion and suspension of trade union members
- 8 Temporary trade union cards
- 9 Rights of employees and employers
- Division 2  
Bargaining Units**
- 10 Crown employees
- 11 Other employers

**Division 3**

**Persons Included in and Excluded from Bargaining Units and Other Units for Collective Bargaining**

- 12 Composition of bargaining units
- 13 Certain professionals excluded
- 14 Included professions opting out
- 15 Time limits

**Part 4**

**Certification of Bargaining Agents**

- 16 Certification
- 17 Voluntary recognition
- 18 Revocation of bargaining rights
- 19 General provisions re certification and voluntary recognition

**Part 5**

**Collective Bargaining**

- 20 Commencement of collective bargaining
- 21 Notice
- 22 Collective agreement

**Effect of Collective Agreement**

- 23 Effect of collective agreement
- 24 Unspecified periods of time
- 24.1 Bridging
- 25 Filing
- 26 Domination of or influence on trade unions
- 27 Signing collective agreement

**Part 6**

**Resolution of Collective Bargaining Disputes**

**Division 1**

**Application of the Labour Relations Code**

- 28 Application of Labour Relations Code

**Division 2**

**Compulsory Interest Arbitration**

- 31 Request for compulsory arbitration board
- 32 Establishment of compulsory arbitration board
- 33 Appointment of members
- 34 Board appointments
- 35 Expenses and remuneration

- 36 Terms of reference
- 37 Additional arbitral items
- 38 Matters to be considered
- 39 Arbitral award
- 40 Filing and service of award
- 41 Effect of arbitral award
- 42 Incorporating arbitral award
- 43 Signing collective agreement

### **Part 7 Collective Agreement Arbitration**

- 44 Application of Labour Relations Code

### **Part 8 Unfair Practices**

- 45 Acts prohibited by employer
- 46 Terms and conditions of employment frozen
- 46.1 Insurance and pension rights
- 47 Acts prohibited by trade union
- 48 Refusal to commence collective bargaining

### **Complaints**

- 50 Complaints
- 51 Board powers

### **Part 9 General**

- 52 Definitions

### **Proceedings of Tribunals**

- 53 Restrictions on appointments
- 54 Decisions
- 55 Technical irregularities
- 56 Evidence
- 57 Witnesses and documents
- 58 Enforcing attendance of persons
- 59 Privileged information
- 60 Persons who are not compellable witnesses
- 61 Powers of investigation
- 62 Arbitration Act
- 63 Review of decisions by Court of Queen's Bench
- 64 Effect of judicial review

**Successor Employers and Trade Unions**

- 65 Successor employers
- 66 Successor trade unions

**Other Matters**

- 67 Remuneration
- 69 Suspension of dues check-off
- 70 Penalties re prohibited strikes
- 71 Penalties re prohibited lockouts
- 72 Specific offences
- 73 General offence and penalty

**Transitionals from SA 1977 c40**

- 74 Certified bargaining agents
- 75 Professional associates  
Schedule

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

**Definitions**

**1** In this Act,

- (a) repealed 2018 c21 s2;
- (b) “bargain collectively” means to negotiate with a view to entering into, renewing or revising a collective agreement and “collective bargaining” has a corresponding meaning;
- (c) “bargaining agent” means a trade union acting on behalf of employees in collective bargaining or as a party to a collective agreement with an employer whether or not the bargaining agent is a certified bargaining agent;
- (d) “bargaining unit” means a unit in respect of which a trade union is certified as a bargaining agent;
- (e) “Board” means the Labour Relations Board;
- (f) “certified bargaining agent” means a trade union certified by the Board as a bargaining agent;
- (g) “Chair” means the chair of the Board;
- (h) “collective agreement” means an agreement in writing between an employer and a bargaining agent, containing terms or conditions of employment;

- (i) “Court” means the Court of Queen’s Bench;
- (i.1) “designated essential services worker” means a designated essential services worker under Part 2, Division 15.1 of the *Labour Relations Code*;
- (j) “difference” means a difference arising
  - (i) as to the interpretation, application or operation of a collective agreement,
  - (ii) with respect to a contravention or alleged contravention of a collective agreement, or
  - (iii) as to whether a difference referred to in subclauses (i) and (ii) can be the subject of arbitration under Part 7;
- (k) “dispute” means a dispute arising in connection with entering into, renewing or revising a collective agreement or any part of it;
- (l) “employee” means an employee of an employer, but does not include a person who is
  - (i) excluded from a bargaining unit or any other unit for collective bargaining under section 12(1),
  - (ii) excluded from a bargaining unit or any other unit for collective bargaining pursuant to a determination by the Board pursuant to section 12(2), or
  - (iii) a member of a profession during the period that the person is excluded from a bargaining unit or any other unit for collective bargaining pursuant to this Act;
- (m) “employer” means
  - (i) the Crown in right of Alberta, or
  - (ii) a corporation, commission, board, council or other body, all or a majority of whose members or directors
    - (A) are designated by an Act of the Legislature,
    - (B) can be appointed or designated either by the Lieutenant Governor in Council or by a Minister of the Crown in right of Alberta or partly by the Lieutenant Governor in Council and partly by a Minister of the Crown in right of Alberta,

whether the power of appointment or designation is exercised or not or is only partially exercised, or

- (C) are in part designated by an Act of the Legislature and in part can be appointed or designated either by the Lieutenant Governor in Council or by a Minister of the Crown in right of Alberta or partly by the Lieutenant Governor in Council and partly by a Minister of the Crown in right of Alberta, whether the power of appointment or designation is exercised or not or is only partially exercised;
- (m.1) “essential services agreement” means an essential services agreement under Part 2, Division 15.1 of the *Labour Relations Code*;
- (n) “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 a person,for the purpose of compelling persons employed by the employer or to aid another employer in compelling persons employed by that employer to accept terms or conditions of employment;
- (o) “strike” includes
  - (i) a cessation of work,
  - (ii) a refusal to work,
  - (iii) a refusal to continue to work, or
  - (iv) a concerted activity designed to restrict production or service,by 2 or more persons employed by the same employer acting in combination or in concert or in accordance with a common understanding;
- (p) “trade union” means an organization having
  - (i) a written constitution, rules or bylaws, and

- (ii) as one of its objects, the regulation of relations between employers and employees;
- (q) “unit” means 2 or more employees of the same employer.  
RSA 2000 cP-43 s1;2016 c10 s19;2018 c21 s2

## Part 1 Application

### Application

**2(1)** This Act does not apply to

- (a) the persons named in the Schedule to the extent described in the Schedule, or
- (b) a person who is permanently employed outside Alberta by an employer.

**(2)** The Lieutenant Governor in Council may by regulation amend the name of a person named or the description of a person referred to in the Schedule.

RSA 1980 cP-33 s2

## Part 2 Powers of Board

### Powers of Board

**3(1)** All the provisions of the *Labour Relations Code* relating

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

if those matters are not provided for specifically in this Act, apply and have effect as if those provisions formed part of this Act.

**(2)** In addition to its powers under the *Labour Relations Code*, the Board may decide for the purposes of this Act whether

- (a) a corporation, commission, board, council or other body is an employer;
- (b) a person is an employee;
- (c) an organization of employees is a trade union;

- (d) the parties to a dispute have settled the terms and conditions to be included in a collective agreement;
- (e) a collective agreement has been entered into;
- (f) a person is bound by a collective agreement;
- (g) a person is a party to a collective agreement;
- (h) a collective agreement has been entered into on behalf of any person;
- (i) a collective agreement is in effect;
- (j) subject to sections 10 and 11, two or more employees of the same employer are a bargaining unit;
- (k) a person has applied for membership in a trade union;
- (l) a matter in dispute is an arbitral item;
- (m) a person practises the person's profession as a condition of employment;
- (n) a person is a member in good standing of a trade union;
- (o) a person is or is not included under section 12(1);
- (p) a person is included in or excluded from a unit;
- (q) a strike has occurred or is lawful under this Act;
- (r) a lockout has occurred or is lawful under this Act,

and the Board's decision is final and binding.

**(3)** The Chair or a vice-chair may sit alone to hear and decide a question under subsection (2)(b), (c), (j), (k), (n) or (p).

RSA 2000 cP-43 s3;2016 c10 s20

## **Part 3**

### **Trade Unions and Bargaining Units**

#### **Division 1**

#### **Trade Unions**

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

**4(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.

RSA 1980 cP-33 s12;1994 c19 s2(4)

#### **Disclosure of information**

**5** 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.

RSA 1980 cP-33 s13;1994 c19 s2(4)

#### **Status of trade unions**

**6(1)** For the purposes of this Act, a trade union is capable of

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

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

RSA 1980 cP-33 s14

#### **Expulsion and suspension of trade union members**

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

- (a) served with specific charges in writing,
- (b) given a reasonable time to prepare the person's defence,
- (c) afforded a full and fair hearing, including the right to be represented by counsel, and

- (d) found guilty of the charge or charges and, when a fine is imposed, fails to pay the fine after having been given a reasonable time to do so.

RSA 1980 cP-33 s15

**Temporary trade union cards**

**8** When a trade union issues a temporary card to a person who is not a member of the trade union, the fee charged by the trade union for the temporary card for each month shall not exceed an amount equivalent to the dues payable by a member of the trade union for the same period.

RSA 1980 cP-33 s16

**Rights of employees and employers**

**9(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 to bargain collectively with its employees.

RSA 1980 cP-33 s17

**Division 2  
Bargaining Units****Crown employees**

**10** The employees of the Crown in right of Alberta constitute a single bargaining unit.

RSA 1980 cP-33 s18

**Other employers**

**11(1)** This section does not apply to the employees of the Crown in right of Alberta.

**(2)** Subject to subsection (1), the employees of each employer respectively constitute single bargaining units unless the Board otherwise determines in accordance with section 16(3).

RSA 1980 cP-33 s19;1994 cR-9.07 s25(32);1994 c19 s2(5)

**Division 3  
Persons Included in and Excluded from  
Bargaining Units and Other Units for  
Collective Bargaining****Composition of bargaining units**

**12(1)** A person employed by an employer

- (a) who has or exercises managerial duties and responsibilities in relation to one or more persons or in relation to the formulation, development or administration of policies or programs,
- (b) who is primarily engaged in the administration of personnel policies or personnel programs including, without limiting the generality of the foregoing, payroll, health and safety or training programs,
- (c) in the office of the Public Service Commission established under the *Public Service Act* or in a personnel office of an employer other than the Crown in right of Alberta or in any capacity requiring the person to deal on behalf of an employer with any matter related to collective bargaining under this Act,
- (d) who is required by reason of the person's duties and responsibilities to represent the employer in a procedure established pursuant to a collective agreement for the resolution of differences,
- (e) as an officer under the *Labour Relations Code* dealing with any matter related to collective bargaining under that Act,
- (e.1) subject to subsection (1.1), in a position classified under the *Public Service Act* as
  - (i) a budget officer,
  - (ii) a systems analyst, or
  - (iii) an auditor,or performing for an employer substantially similar duties to a person employed in any of those positions,
- (f) repealed 2018 c21 s3,
- (g) in any of the following:
  - (i) the Legislative Assembly Office,
  - (ii) the Office of the Auditor General,
  - (iii) the Office of the Chief Electoral Officer,
  - (iii.1) repealed 2019 c15 s38,
  - (iv) the Office of the Ombudsman,

- (v) the Office of the Ethics Commissioner,
  - (vi) the Office of the Information and Privacy Commissioner,
  - (vii) the Office of the Child and Youth Advocate, or
  - (viii) the Office of the Public Interest Commissioner,
  - (h) in the Legislative Counsel Office of the Department of Justice and Solicitor General,
  - (i) in the office of
    - (i) the Lieutenant Governor,
    - (ii) a member of the Executive Council, or
    - (iii) the Executive Council,
  - (j) on the personal staff of
    - (i) a deputy Minister or assistant deputy Minister or a person who has comparable duties and responsibilities, or
    - (ii) a person referred to in clause (b), (c) or (e),
- or
- (k) who in the opinion of the Board should not be included in a bargaining unit or any other unit for collective bargaining by reason of the duties and responsibilities the person has to the person's employer or for any other reason,

shall not be included in a bargaining unit or any other unit for collective bargaining.

**(1.1)** Subsection (1)(e.1) applies in respect of a person as of the date prescribed in the regulations for the person's employer or class of employer.

**(1.2)** The Lieutenant Governor in Council may make regulations prescribing employers, classes of employers and dates for the purposes of subsection (1.1).

(2) If a question arises over whether a person is or is not included under subsection (1) and the matter cannot be settled by the employer and the bargaining agent, the question may be referred to the Board and its decision is final and binding.

RSA 2000 cP-43 s12;2007 c15 s2;2011 cC-11.5 s35;  
2012 cP-39.5 s61;2013 c10 s36;2016 c23 s7;2018 c11 s18;  
2018 c21 s3;2019 c15 s38;2019 c18 s16

#### **Certain professionals excluded**

**13(1)** Those persons who are members of or training to become members of

- (a) the medical profession,
- (b) the dental profession,
- (c) the architectural profession,
- (d) the engineering profession, or
- (e) the legal profession,

and who practise their profession as a condition of employment, shall not be included in a bargaining unit or any other unit for collective bargaining unless the Board directs that the members of the profession be included in the unit pursuant to subsection (2).

(2) The Board may direct that members or persons training to become members of a profession referred to in subsection (1) be included in a bargaining unit or any other unit for collective bargaining if

- (a) it is satisfied that the majority of the persons employed by an employer who are members or persons training to become members of the profession wish to be included in the unit, and
- (b) it has allowed affected employers, bargaining agents and any other person or organization interested in the matter and whom the Board agrees to hear to present any facts or arguments they feel are relevant.

(3) For the purpose of determining a majority under subsection (2), only those members or persons training to become members of the profession who would not be excluded from a bargaining unit or any other unit for collective bargaining under section 12(1) are entitled to vote or otherwise express an opinion on the matter.

RSA 1980 cP-33 s22;1983 c96 s4

#### **Included professions opting out**

**14(1)** If the members of a profession are included in a bargaining unit or any other unit for collective bargaining by the Board

pursuant to section 13(2), they may subsequently be excluded from the unit by the Board if

- (a) it is satisfied that the majority of the persons employed by an employer who are members of the profession and who practise their profession as a condition of employment wish to be excluded, and
- (b) it has allowed affected employers, bargaining agents and any other person or organization interested in the matter and whom the Board agrees to hear to present any facts or arguments they feel are relevant.

**(2)** In determining a majority for the purposes of subsection (1), only those members of the profession who are members of the bargaining unit or any other unit for collective bargaining are entitled to vote or express an opinion on the matter.

RSA 1980 cP-33 s23

#### **Time limits**

**15** An application to the Board to be included in or excluded from a bargaining unit or any other unit for collective bargaining under section 13 or 14 may be made

- (a) if a collective agreement for a term of 2 years or less is in force in respect of any of the employees of the employer, at any time in the 2 months prior to the end of the term of the collective agreement affecting the unit in respect of which the application is made,
- (b) if a collective agreement for a term of more than 2 years is in force in respect of any of the employees of the employer, at any time
  - (i) in the 11th or 12th month of the 2nd year or the 11th or 12th month of any subsequent year of the term, or
  - (ii) in the 2 months prior to the end of the term,

of the collective agreement affecting the unit in respect of which the application is made.

RSA 1980 cP-33 s24

## **Part 4 Certification of Bargaining Agents**

#### **Certification**

**16(1)** 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, and in that case

Division 5 of Part 2 of the *Labour Relations Code* applies, subject to subsection (2).

(2) In an application for certification under this Part where the employer is the Crown in right of Alberta, the unit must be the single bargaining unit constituted under section 10.

(3) In an application for certification under this Part where the employer is an employer to whom section 11 applies, the Board shall not certify the unit applied for or a unit reasonably similar to it unless the Board is satisfied that that unit is more appropriate for collective bargaining than the single bargaining unit constituted under section 11.

1994 c19 s2(6)

#### **Voluntary recognition**

**17(1)** Subject to subsection (2), Division 6 of Part 2 of the *Labour Relations Code* dealing with an employer's right to bargain collectively with a voluntarily recognized trade union acting on behalf of the employer's employees or a unit of them applies to employers, employees and trade unions under this Act.

(2) For the purposes of subsection (1), section 43(1) of the *Labour Relations Code* shall be read as if "section 59(2)" read "Part 5 of the *Public Service Employee Relations Act*".

1994 c19 s2(6)

#### **Revocation of bargaining rights**

**18(1)** A trade union, the employees within a unit or the employer or former employer to whom bargaining rights relate may apply to revoke the bargaining rights, and in that case sections 50 to 54 of the *Labour Relations Code* apply.

(2) Section 55 of the *Labour Relations Code* applies to this Act.

1994 c19 s2(6)

#### **General provisions re certification and voluntary recognition**

**19** Division 9 of Part 2 of the *Labour Relations Code* applies to this Act.

1994 c19 s2(6)

## **Part 5 Collective Bargaining**

#### **Commencement of collective bargaining**

**20(1)** When a certified bargaining agent or an employer wishes to commence collective bargaining then, subject to the provisions on commencing collective bargaining contained in this Act,

- (a) the certified bargaining agent may serve on the employer,  
or

(b) the employer may serve on the certified bargaining agent, a notice in writing to commence collective bargaining.

**(2)** 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 is provided for in the collective agreement, by notice in writing, require the other party to the collective agreement to commence collective bargaining.

RSA 1980 cP-33 s38;1994 c19 s2(7)

### Notice

**21(1)** A notice to commence collective bargaining shall

- (a) be served at least 10 days before the time fixed in the notice for the commencement of collective bargaining,
  - (b) name the one or more persons resident in Alberta with authority to
    - (i) bargain collectively,
    - (ii) conclude a collective agreement, and
    - (iii) sign a collective agreement,
- and
- (c) be served personally or by mailing it by registered mail to the last known business address of the addressee,

and in the event that the notice is mailed, the date of mailing shall be treated as the date of service.

**(2)** On receipt of a notice to commence collective bargaining, the recipient shall by notice in writing to the other party name the one or more persons resident in Alberta with authority to

- (a) bargain collectively,
- (b) conclude a collective agreement, and
- (c) sign a collective agreement

on the recipient's behalf.

**(3)** On the service of a notice to commence collective bargaining, the bargaining agent and the employer, without delay but in any event within 30 days after the notice is given, 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.

RSA 1980 cP-33 s39;1994 c19 s2(8)

### **Collective agreement**

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

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

RSA 1980 cP-33 s40

### **Effect of Collective Agreement**

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

**23** 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, and
- (b) the employer.

RSA 1980 cP-33 s41

#### **Unspecified periods of time**

**24(1)** If a collective agreement is for an unspecified period of time, the agreement is deemed to provide for its operation for one year from the date that it commenced to operate.

**(2)** and **(3)** Repealed 2016 c10 s21.

RSA 2000 cP-43 s23;2016 c10 s21

#### **Bridging**

**24.1(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 collective agreement, until

- (a) a new collective agreement is concluded,
- (b) the right of the bargaining agent to represent the employees is terminated,
- (c) a collective agreement becomes a collective agreement between the parties pursuant to section 43(2), or
- (d) a strike or lockout commences under Part 2, Division 13 of the *Labour Relations Code* as it applies to this Act.

**(2)** If a strike or lockout commences under Part 2, Division 13 of the *Labour Relations Code* as it applies to this Act, 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.

**(3)** No application for certification as bargaining agent and no application for revocation of bargaining rights may be made without the Board's consent during a strike or lockout under Part 2, Division 13 of the *Labour Relations Code* as it applies to this Act.

2016 c10 s22

### **Filing**

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

RSA 1980 cP-33 s43

### **Domination of or influence on trade unions**

**26** Any collective agreement entered into between an employer and a trade union that is not a certified bargaining agent may be declared by the Board to be void if 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.

RSA 1980 cP-33 s44

### **Signing collective agreement**

**27(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.

RSA 1980 cP-33 s45

## Part 6 Resolution of Collective Bargaining Disputes

### Division 1 Application of the Labour Relations Code

#### Application of Labour Relations Code

**28(1)** Part 2, Divisions 11 to 15 of the *Labour Relations Code* apply to this Act and have effect as if those provisions formed part of this Act, except as follows:

- (a) in Division 11, in section 65, the reference to section 59 shall be read as a reference to section 20 of this Act;
- (b) in Division 12,
  - (i) in section 69(1), “At any time after the exchange of proposals under section 60” shall be read as “At any time after a notice in writing to commence collective bargaining is served under section 20 of the *Public Service Employee Relations Act*”;
  - (ii) section 70(4) does not apply;
- (c) in Division 13,
  - (i) section 73(a.1) shall be read as follows:
    - (a.1) in the case of an employee and bargaining agent referred to in section 95.2(c),
      - (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),
    - (ii) section 74(a.1) shall be read as follows:
      - (a.1) in the case of an employer referred to in section 95.2(c),
        - (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),
  - (iii) sections 81 to 83 do not apply;
  - (iv) in sections 73(a), 74(a) and 75(2) the reference to section 130 of the *Labour Relations Code* shall be read as a reference to section 24.1 of this Act.
- (2) Section 154 of the *Labour Relations Code* applies to this Act.
- (3) Part 2, Divisions 17 and 18 of the *Labour Relations Code* apply to this Act and have effect as if those provisions formed part of this Act, except that in Division 17, section 107(5) does not apply.
- (4) Part 2, Division 20 of the *Labour Relations Code* applies to this Act and has effect as if those provisions formed part of this Act, but does not apply with respect to a compulsory arbitration board under this Act.

RSA 2000 cP-43 s28;2016 c10 s23

29 Repealed 2016 c10 s23.

## Division 2 Compulsory Interest Arbitration

30 Repealed 2018 c21 s4.

### Request for compulsory arbitration board

- 31(1)** If a dispute cannot be resolved and a declaration has been made under section 95.44(7) or 95.45(1) of the *Labour Relations Code*, the employer or the bargaining agent, or both, may request the Board to establish a compulsory arbitration board.
- (2) A request by either or both of the parties under subsection (1) shall
- (a) if it is made by the employer, be accompanied with a list of the items it claims are in dispute and that the employer wishes to be referred to compulsory arbitration at that time,
  - (b) if it is made by the bargaining agent, be accompanied with a list of the items it claims are in dispute and that the bargaining agent wishes to be referred to compulsory arbitration at that time, or

- (c) if it is made jointly, be accompanied with a list of the items that each party claims are in dispute and that each wish to be referred to compulsory arbitration at that time.

**(3)** On receipt of a request by either party under subsection (1), the Board shall as soon as possible send a copy of the request and the list of items claimed to be in dispute to the other party.

**(4)** The party receiving the copy of the request for the appointment of a compulsory arbitration board shall within 10 days after receipt of the copy and if the party has additional items to add, send those items to the Board and send a copy of them to the other party to the dispute.

RSA 2000 cP-43 s31;2016 c10 s24

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

**32** When a request for the establishment of a compulsory arbitration board is made by either an employer or a bargaining agent, the Board may establish a compulsory arbitration board if it is satisfied that

- (a) there are arbitral items to refer to a compulsory arbitration board,
- (b) the arbitral items can satisfactorily be considered together,
- (c) it is an appropriate time to refer the matter to a compulsory arbitration board, and
- (d) the dispute is a proper one to refer to a compulsory arbitration board.

RSA 2000 cP-43 s32;2016 c10 s25

### **Appointment of members**

**33(1)** When the Board agrees to establish a compulsory arbitration board, it shall notify the parties to the dispute in writing accordingly and require each of them within 10 days to appoint a person to act as a member of the compulsory arbitration board.

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

RSA 1980 cP-33 s51;1994 c19 s2(13),(15)

### **Board appointments**

**34(1)** If an employer or bargaining agent fails to appoint a person as a member of a compulsory arbitration board, the Board may appoint a person to act as a member on its or their behalf.

(2) If the 2 persons appointed as members of a compulsory arbitration board fail to appoint a person to act as a member and chair, the Board may appoint a person to act as a member and chair on their behalf.

(3) If a vacancy occurs in the membership of a compulsory arbitration board, it shall be filled in the same manner as provided for the appointment of the member or chair.

RSA 1980 cP-33 s52;1994 c19 s2(13)

#### **Expenses and remuneration**

**35** The expenses and remuneration of a person appointed under section 33 or 34 shall be paid

- (a) in the case of a person other than the chair of the compulsory arbitration board, by the party who appointed or failed to appoint the person, and
- (b) in the case of the chair of the compulsory arbitration board, jointly by the parties.

1983 c34 s5(5);1994 c19 s2(16)

#### **Terms of reference**

**36(1)** When 3 persons are appointed to act as members of a compulsory arbitration board, the Board, by notice in writing to the chair, shall establish the members as a compulsory arbitration board.

(2) The Board, in the notice referred to in subsection (1) or in one or more additional notices in writing to the chair, shall list the arbitral items in dispute to be resolved by the compulsory arbitration board.

(3) When the Board refers arbitral items to the compulsory arbitration board, the compulsory arbitration board shall inquire into the arbitral items in dispute and endeavour to effect a settlement.

(4) If it is unable to effect a settlement, the compulsory arbitration board shall make an inquiry into the arbitral items in dispute in accordance with this Division.

(5) A compulsory arbitration board remains constituted until it is dissolved by the Board by notice in writing to the chair of the compulsory arbitration board.

(6) The Board may

- (a) refer additional arbitral items in dispute to the compulsory arbitration board at any time before the compulsory arbitration board is dissolved under subsection (5), or

- (b) remove items in dispute from the consideration of the compulsory arbitration board at any time before the issuance of an award with respect to those items by the compulsory arbitration board.

RSA 1980 cP-33 s53;1983 c34 s5(6);1985 c47 s3;  
1994 c19 s2(12),(13),(14)

#### **Additional arbitral items**

**37(1)** Where a compulsory arbitration board is established, the employer and the bargaining agent may jointly refer additional items in a dispute to the Board with a request that they be sent to the compulsory arbitration board.

**(2)** If the Board is satisfied with respect to the matters referred to in section 32, the Board shall refer the arbitral items in a dispute to the compulsory arbitration board for resolution.

RSA 2000 cP-43 s37;2016 c10 s26

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

**38** 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.

RSA 1980 cP-33 s55;1983 c34 s5(7);1988 cL-1.2 s207;  
1994 c19 s2(14)

#### **Arbitral award**

**39(1)** As soon as possible after making an inquiry into the arbitral items in dispute referred to it, the compulsory arbitration board shall make an award and in its award deal with each arbitral item in dispute.

**(2)** An arbitral award may be retroactive in whole or in part.

**(3)** The compulsory arbitration board may issue

- (a) one arbitral award,
- (b) one arbitral award in separate parts at different times, or
- (c) 2 or more arbitral awards at different times.

RSA 1980 cP-33 s56;1994 c19 s2(14)

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

**40(1)** On making an arbitral award, the compulsory arbitration board shall

- (a) file a copy of it with the Board, and
- (b) serve a copy of it on the employer and the bargaining agent personally or by double registered mail.

**(2)** The Board may in any manner publish an arbitral award.

RSA 1980 cP-33 s57;1994 c19 s2(14)

#### **Effect of arbitral award**

**41(1)** An arbitral award of a compulsory arbitration board is binding on

- (a) the bargaining agent and every employee in the unit on whose behalf it was bargaining collectively, and

(b) the employer,

and the employer and the bargaining agent shall forthwith give effect to it.

(2) The terms of the one or more arbitral awards relating to entering into, renewing or revising a collective agreement shall be included in a collective agreement.

RSA 1980 cP-33 s58;1994 c19 s2(13)

#### **Incorporating arbitral award**

**42(1)** If either the employer or the bargaining agent neglects or refuses to participate in the preparation of a collective agreement in accordance with section 41(2), the other party may prepare the agreement giving effect to

(a) the one or more arbitral awards of the compulsory arbitration board or compulsory arbitration boards, and

(b) any other matters that are agreed on by the parties,

and shall submit the agreement to the one or more compulsory arbitration boards concerned to certify in each case that the agreement accurately incorporates the one or more awards of that compulsory arbitration board.

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

RSA 1980 cP-33 s59;1994 c19 s2(13),(14),(15)

#### **Signing collective agreement**

**43(1)** On certification by the one or more compulsory arbitration boards concerned pursuant to section 42, the employer and the bargaining agent shall sign the collective agreement.

(2) If, at the expiration of 10 days after the date of certification by the only or the final compulsory arbitration board concerned

(a) neither party to the agreement has signed it, or

(b) one party to the agreement has signed it,

the collective agreement on that expiration becomes a collective agreement between the parties as if they had both signed it and is effective from the date or dates specified in the agreement or if there is no date, from the date or dates specified by the one or more compulsory arbitration boards concerned.

(3) A collective agreement referred to in subsection (2) is binding on

- (a) the bargaining agent and every employee in the unit on whose behalf it was bargaining collectively, and
- (b) the employer.

RSA 1980 cP-33 s60;1994 c19 s2(14)

## Part 7 Collective Agreement Arbitration

### Application of Labour Relations Code

**44** Sections 134 to 146 of the *Labour Relations Code* apply in respect of collective agreement arbitration under this Act, except that in sections 136(e), 137(1), 138(1)(a) and (b) and 141(2) and (4) of the Code, the references to “Director” shall be read as references to “Board”.

1994 c19 s2(17);1994 c40 s10

## Part 8 Unfair Practices

### Acts prohibited by employer

**45(1)** No employer and no person acting on behalf of an employer shall

- (a) participate in or interfere with the formation or administration of 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 its 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,

or

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

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

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

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

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

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

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

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

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

(vii) 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) deny to any employee any pension rights or benefits to which the employee would be entitled but for the wrongful dismissal of the employee;

- (d) seek by intimidation, 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 a person to refrain from becoming or to cease to be a member, officer or representative of a trade union;
- (e) suspend, discharge or impose a financial or other penalty on a person employed by the employer or take any other disciplinary action against that person by reason of that person having refused to perform an act prohibited by this Act;
- (e.1) suspend, discharge or impose a financial or other penalty on an employee, or take any other disciplinary action against an employee, by reason of the employee's refusal to perform all or some of the duties and responsibilities of another employee who is participating in a strike that is permitted under this Act;
- (f) 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 another trade union is the bargaining agent for that unit;
- (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 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.

RSA 2000 cP-43 s45;2016 c10 s27

**Terms and conditions of employment frozen**

**46(1)** When a trade union makes an application for certification as a bargaining agent, no employer shall alter any term or condition of employment of the employees in the unit affected by the application during the time between the date of the application for certification and either

- (a) the date of refusal of the application, or
- (b) 30 days after the date the trade union is certified as the bargaining agent of the employees

unless the alteration is permitted by a collective agreement, if one is in effect respecting the employees in the unit affected by the application, or the trade union applying for certification agrees to the alteration.

**(2)** When a notice to commence collective bargaining is given, the employer affected by the notice shall not alter any term or condition of employment of an employee in the unit on whose behalf the bargaining agent has given notice until

- (a) a collective agreement is in effect between the parties,
- (b) the award or the final award of an arbitration board is issued,
- (c) the right of the trade union to represent employees is terminated, or
- (d) a strike or lockout commences under Part 2, Division 13 of the *Labour Relations Code* as it applies to this Act,

whichever occurs first, unless the alteration is permitted by a collective agreement, if one is in effect respecting the employees represented by the bargaining agent, or the bargaining agent agrees to the alteration.

**(2.1)** If a strike or lockout is subject to an essential services agreement, the prohibition in subsection (2) remains 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.

**(3)** Nothing in this section detracts from or interferes with the right of an employer to discipline, suspend, lay off, demote, dismiss or terminate the employment of employees

- (a) in accordance with a collective agreement, or
- (b) for cause, if there are no provisions in a collective agreement relating to those rights.

RSA 2000 cP-43 s46;2016 c10 s28

#### **Insurance and pension rights**

**46.1(1)** No employer and no person acting on behalf of an employer 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.

**Acts prohibited by trade union**

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

- (a) seek to compel an employer 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 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) 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;
- (d) use coercion or intimidation of any kind with respect to any employee with a view to encouraging or discouraging membership or activity in or for a trade union;
- (e) require an employer to terminate the employment of an employee because the employee has been expelled or suspended from membership in the trade union for a reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union;
- (f) 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;
- (g) 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;
- (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;
- (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 for engaging in employment in accordance with the terms of a collective agreement between the person's employer and the trade union;

- (j) authorize, encourage or permit any employee in a unit in respect of which the trade union is the bargaining agent to 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 persons or class of persons who were or are not members of a trade union or a particular trade union;
- (k) 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
  - (i) has testified or otherwise participated 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.

RSA 1980 cP-33 s72

#### **Refusal to commence collective bargaining**

**48** No employer or bargaining agent and no authorized representative acting on behalf of either of them, after having served or having been served with a notice to commence collective bargaining in accordance with section 21 or the provisions of a collective agreement, shall refuse

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

1985 c47 s6

**49** Repealed 2016 c10 s30.

## Complaints

### Complaints

**50(1)** Subject to subsections (2) and (3), any employer, employee, trade union or other person may make a complaint in writing to the Board that there has been or is a failure to comply with sections 45 to 49.

**(2)** The Board has no jurisdiction to hear a complaint made pursuant to section 47(f) or (g) unless the complainant establishes to the satisfaction of the Board that

- (a) the complainant has 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 from the date the complainant made his or her 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.

RSA 1980 cP-33 s74

### Board powers

**51(1)** When a complaint is made to the Board under section 50, the Board may serve a notice of the complaint on the person against whom the complaint is made.

**(2)** When a complaint is made, the Board may appoint a person to inquire into the complaint and endeavour to effect a settlement.

**(3)** When the Board does not appoint a person under subsection (2) or when the appointed person is unable to effect a settlement within a period that the Board considers to be reasonable in the circumstances, the Board may inquire into the complaint.

**(4)** The Board may refuse to inquire into any complaint in respect of a matter that, in the opinion of the Board, could be referred by the complainant to an adjudicator.

- (5) When the Board is satisfied after an inquiry that an employer, employee, trade union or other person has failed to comply with any of the provisions of sections 45 to 49, the Board
- (a) shall issue a directive to the employer, employee, trade union or other person concerned to cease doing the act in respect of which the complaint was made;
  - (b) may in the same or a subsequent directive require the employer, employee, trade union or other person to do all or any of the following:
    - (i) reinstate any employee suspended or discharged contrary to those sections;
    - (ii) pay to any employee or former employee suspended or discharged contrary to those sections compensation not exceeding the sum that in the opinion of the Board would have been paid by the employer to the employee;
    - (iii) reinstate or admit an employee as a member of a trade union;
    - (iv) rescind any disciplinary action or pecuniary or other penalty taken or imposed contrary to those sections;
    - (v) pay to a person compensation not exceeding the sum that in the opinion of the Board is equivalent to the pecuniary or other penalty imposed on a person contrary to those sections;
    - (vi) pay to an employee in respect of a failure to comply with section 45 compensation not exceeding the 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 complied with that section.
- (6) When the Board is satisfied after an inquiry that an employer or bargaining agent or an authorized representative of either of them is contravening or has contravened section 48, the Board
- (a) shall issue a directive directing the employer, bargaining agent or authorized representative concerned to bargain in good faith and make every reasonable effort to enter into a collective agreement, and
  - (b) may prescribe the procedure or conditions under which collective bargaining is to take place.

(7) If a directive made by the Board pursuant to subsection (5) or (6) is not complied with, the Board may, on the request of an employer, employee, trade union or other person affected by the directive, file a copy of the directive with the clerk of the Court at the judicial centre closest to the place where the complaint arose and, on being filed, the directive is enforceable as a judgment or order of the Court.

(8) If in the opinion of the Board the complaint is without merit, the Board may reject the complaint at any time.

RSA 2000 cP-43 s51;2009 c53 s152

## Part 9 General

### Definitions

**52** In this Part,

- (a) “member of a tribunal” means
  - (i) a person appointed as a member of a compulsory arbitration board, and
  - (ii) a person appointed as a member of an arbitration board pursuant to this Act or a collective agreement,and includes a person acting as a single arbitrator;
- (b) “tribunal” means a compulsory arbitration board, an arbitration board and a single arbitrator.

RSA 1980 cP-33 s76;1994 c19 s2(18)

### Proceedings of Tribunals

#### Restrictions on appointments

**53** No person shall be appointed as a member of a tribunal if the person is directly affected by the dispute or difference or has been involved in an attempt to negotiate or settle the dispute or difference.

RSA 1980 cP-33 s79;1994 c19 s2(20)

#### Decisions

**54(1)** A decision or award of a majority of the members of a tribunal is a decision or award of the tribunal, but if there is no majority the decision or award of the chair of the tribunal is the decision or award of the tribunal.

(2) A tribunal may in any proceeding, award or decision correct any clerical mistake, error or omission.

RSA 1980 cP-33 s80

**Technical irregularities**

**55** No proceeding under this Act is invalid by reason only of any defect of form or a technical irregularity.

RSA 1980 cP-33 s81

**Evidence**

**56** A tribunal, in the exercise of any powers and performance of any duties imposed or conferred on the tribunal,

- (a) may accept any oral or written evidence the tribunal in the tribunal's discretion considers proper whether admissible in a court of law or not, and
- (b) is not bound by the laws of evidence applicable to judicial proceedings.

RSA 1980 cP-33 s82

**Witnesses and documents**

**57(1)** For the purposes of this Act, a tribunal may

- (a) summon and enforce the attendance of witnesses in the same manner as a court of record in civil cases;
- (b) require any person to attend and produce any documents and things it considers necessary for the purpose of any inquiry or consideration of any matter within its jurisdiction.

**(2)** A member of a tribunal may administer an oath to a person appearing before the tribunal.

RSA 1980 cP-33 s83

**Enforcing attendance of persons**

**58(1)** When in the opinion of a tribunal

- (a) the attendance of a person is required, or
- (b) the attendance of a person to produce a document or other thing is necessary,

the tribunal may serve on the person concerned a notice to attend or a notice to attend and produce, as the case may be.

**(2)** If a person fails or refuses to comply with

- (a) a notice to attend, or
- (b) a notice to attend and produce a document or other thing,

issued under subsection (1), the Court, on application of the tribunal, may issue a bench warrant requiring the attendance of the

person or the attendance of the person to produce the document or other thing, as the case may be, before the tribunal.

RSA 1980 cP-33 s84

#### **Privileged information**

**59(1)** Notwithstanding anything in this Act, when a document is in the official possession, custody or power of a member of the Executive Council or of the head of a department of the public service of Alberta, but a deputy head or other officer has the document in the deputy head's or other officer's personal possession and is called as a witness, the deputy head or other officer, acting by the direction and on behalf of the member of the Executive Council or head of a department, is entitled to object to the production of the document on the ground that it is privileged.

**(2)** The objection may be taken by the deputy head or other officer in the same manner and has the same effect as if the member of the Executive Council or head of a department were personally present and made the objection.

**(3)** A person employed by the Crown in right of Alberta shall not disclose or be compelled to disclose information obtained by the person in the person's official capacity if a member of the Executive Council certifies that in the member's opinion

- (a) it is not in the public interest to disclose that information, or
- (b) the information cannot be disclosed without prejudice to the interests of persons not concerned in the proceedings.

**(4)** The information in respect of which a certificate is given under subsection (3) is privileged.

RSA 1980 cP-33 s85

#### **Persons who are not compellable witnesses**

**60(1)** The following persons are not compellable witnesses in proceedings before any court respecting any information, material or report obtained by them:

- (a) a member of a compulsory arbitration board;
- (b) a mediator.

**(2)** In this section, "court" does not include an inquiry under the *Public Inquiries Act*.

RSA 1980 cP-33 s86;1994 c19 s2(21)

#### **Powers of investigation**

**61** A tribunal may

- (a) enter any premises where
  - (i) work is being done or has been done by employees or in which an employer carries on business, or
  - (ii) anything is taking place or has taken place concerning a difference or dispute;
- (b) inspect and examine any work, material, machinery, appliance or article in the one or more places referred to in clause (a);
- (c) question an employee under oath in the presence of the parties or their representatives concerning any matter connected with the difference or dispute;
- (d) authorize any person to do the things that they are permitted to do under this section and to report on those things.

RSA 1980 cP-33 s87;1994 c19 s2(22)

#### **Arbitration Act**

**62** The *Arbitration Act* does not apply to a compulsory arbitration or an arbitration under this Act or any award resulting from it.

RSA 1980 cP-33 s88;1994 c19 s2(23)

#### **Review of decisions by Court of Queen's Bench**

**63(1)** No award, proceeding or decision of a tribunal shall be questioned or reviewed in any court, 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 in any of the tribunal's proceedings.

**(2)** Notwithstanding subsection (1), the award, proceeding or decision of a tribunal may be questioned or reviewed by way of an application for judicial review in the nature of certiorari or mandamus if an application for it is filed with the Court not later than 30 days after the date of the award, proceedings or decision of the tribunal.

RSA 2000 cP-43 s63;2009 c53 s152

#### **Effect of judicial review**

**64** If an arbitral award of a compulsory arbitration board is questioned or reviewed under section 63, a decision under that section that the award is invalid with respect to one or more arbitral items does not affect the validity of the award as it relates to the other arbitral items unless the Court otherwise directs.

1985 c47 s8;1994 c19 s2(24)

## Successor Employers and Trade Unions

### Successor employers

**65** If an employer is incorporated or established and replaces or takes the place in whole or in part of another or other employers or if one or more employers are in whole or in part merged with another employer or employers, the Board may, on the application of any employer or trade union affected,

- (a) declare which employer is bound by this Act,
- (b) determine, in accordance with this Act, whether the employees concerned constitute one or more bargaining units,
- (c) declare which trade union or trade unions, if any, are the bargaining agent or agents on behalf of 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, continues in force and to what extent it continues in force and which collective agreement, if any, terminates.

RSA 1980 cP-33 s90

### Successor trade unions

**66(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 of 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)** 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.

RSA 1980 cP-33 s91

## Other Matters

### Remuneration

**67** The Board may govern the remuneration, travelling and living expenses to be paid to

- (a) the chair and members of a compulsory arbitration board or arbitration board appointed by the Board, and
- (b) a mediator.

RSA 1980 cP-33 s92;1983 c34 s5(8);1994 c19 s2(25)

**68** Repealed 2016 c10 s31.

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

**69(1)** If a strike of employees contrary to this Act commences, the employer, notwithstanding any collective agreement or any other provision of this Act, may serve the bargaining agent that represents those employees with a notice of intention to suspend the deduction and remittance of union dues, assessments or other fees payable to the bargaining agent.

**(2)** A notice of intention under subsection (1) shall specify

- (a) the bargaining unit or part of the bargaining unit with respect to which the employer intends to suspend the deduction and remittance of union dues, assessments or other fees, and
- (b) a time period of not less than one month and not more than 6 months with respect to which the employer intends the suspension to be in effect.

**(3)** A bargaining agent affected by the notice under subsection (1) may apply to the Board within 72 hours after service of the notice, but not afterwards, for a determination as to whether a strike contrary to this Act has occurred.

**(4)** If the bargaining agent does not make an application under subsection (3), the employer may suspend the deduction and remittance of union dues, assessments or other fees in accordance with the notice of intention under subsection (1) at any time after 72 hours from the service of the notice.

**(5)** If the bargaining agent makes an application under subsection (3), the employer shall not suspend the deduction and remittance of union dues, assessments or other fees unless and until the Board makes the determination under subsection (6)(b) that a strike contrary to this Act has occurred.

**(6)** If the bargaining agent makes an application under subsection (3), the Board may

- (a) if it determines that no strike contrary to this Act has occurred, cancel the notice of intention under subsection (1), or

- (b) if it determines that a strike contrary to this Act has occurred, confirm the notice of intention under subsection (1) and order that the suspension may take place
  - (i) for the period specified in the notice of intention, or
  - (ii) for a period of not less than one month and not more than 6 months specified by the Board,

and, on that order being made, the employer may suspend the deduction and remittance of union dues, assessments and other fees in accordance with the notice of intention.

**(7)** Unless sooner revoked by the employer, the suspension under subsection (4) or (6) shall continue

- (a) until the end of the period specified in the notice of intention under subsection (1), or
- (b) if the Board has specified a period under subsection (6), until the end of that period.

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

**(9)** At the end of the suspension period as determined under subsection (7), the employer shall resume the deduction and remittance of union dues, assessments and other fees in accordance with the collective agreement, but nothing in this subsection requires the employer to deduct and remit union dues, assessments and other fees with respect to the suspension period.

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

RSA 2000 cP-43 s69;2016 c10 s32

#### **Penalties re prohibited strikes**

**70(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.

RSA 2000 cP-43 s70;2016 c10 s33

### **Penalties re prohibited lockouts**

**71(1)** An employer 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.

RSA 2000 cP-43 s71;2016 c10 s33

### **Specific offences**

**72** 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.

RSA 2000 cP-43 s72;2016 c10 s33

### **General offence and penalty**

**73** Subject to sections 70 and 71, a person, employee, employer 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 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 cP-43 s73;2016 c10 s33

**Transitionals from SA 1977 c40****Certified bargaining agents**

**74(1)** A certified bargaining agent under *The Alberta Labour Act, 1973*, SA 1973 c33, of a unit of employees to which this Act applies is deemed to be a certified bargaining agent of those employees under this Act.

**(2)** The Alberta Union of Provincial Employees is deemed to be the certified bargaining agent of each unit of employees on behalf of which it is, on September 23, 1977, a party to an agreement under *The Public Service Act*, RSA 1970 c298, or *The Crown Agencies Employee Relations Act*, RSA 1970 c79.

1977 c40 s99

**Professional associations**

**75(1)** Those employees who are members of a professional association excluded from a bargaining unit or other unit for collective bargaining pursuant to section 26 of *The Public Service Act*, RSA 1970 c298, or pursuant to *The Crown Agencies Employee Relations Act*, RSA 1970 c79, but who are not members of a profession referred to in section 22, subsection (1) of the *Public Service Employee Relations Act*, SA 1977 c40, are excluded from the bargaining unit or other unit for collective bargaining but may be included in a unit pursuant to a direction of the Board made under subsection (2).

**(2)** The Board may direct that the members of a professional association referred to in subsection (1) be included in a bargaining unit or any other unit for collective bargaining, as the case may be, if it is satisfied that the majority of the persons employed by an employer who are members of the professional association wish to be included in the unit.

1977 c40 s101

**Schedule**

**1** All the following employers and all of the persons employed by them:

- (a) repealed 2007 c42 s4;
- (b) The Board of the Northland School Division No. 61;
- (c) every board of administrators of a new town formed under the *Municipal Government Act*;
- (d) the Special Areas Board;
- (e) Irrigation Land Manager;
- (f) every board of trustees of a drainage district formed or continued under the *Drainage Districts Act*;
- (g) every management body within the meaning of the *Alberta Housing Act*;
- (h) the Glenbow-Alberta Institute;
- (i) the Alberta Heritage Foundation for Medical Research;
- (j) the Alberta Heritage Foundation for Science and Engineering Research;
- (j.1) the Alberta Energy Regulator;
- (k) the Health Quality Council of Alberta.
- (m) repealed 2008 cH-4.3 s25.

**2(1)** The board of governors of each university as defined in the *Post-secondary Learning Act* while it is acting as the employer of its

- (a) academic staff,
- (b) academically employed graduate students, and
- (c) postdoctoral fellows in the case of a comprehensive academic and research university,

as defined in the *Post-secondary Learning Act*.

**(2)** The academic staff, as defined in the *Post-secondary Learning Act*, of each university.

**(3)** The academically employed graduate students, as defined in the *Post-secondary Learning Act*, employed by the board of governors of each university.

**(4)** The postdoctoral fellows, as defined in the *Post-secondary Learning Act*, employed by the board of governors of a comprehensive academic and research university.

**3(1)** The board of each comprehensive community college as defined in the *Post-secondary Learning Act* while it is acting as the employer of its academic staff as defined in the *Post-secondary Learning Act*.

**(2)** The academic staff, as defined in the *Post-secondary Learning Act*, of each comprehensive community college.

**4(1)** The board of governors of a polytechnic institution as defined in the *Post-secondary Learning Act* while it is acting as the employer of its academic staff as defined in the *Post-secondary Learning Act*.

**(2)** The academic staff, as defined in the *Post-secondary Learning Act*, of each polytechnic institution.

RSA 2000 cP-43 Sched.;2003 cP-19.5 s147;2007 c42 s4;  
2008 cH-4.3 s25;2011 cH-7.2 s26;2012 cR-17.3 s103;  
2017 c4 s3;2018 c19 s75



Printed on Recycled Paper 