

1957

CHAPTER 38

An Act to amend The Alberta Labour Act

(Assented to April 11, 1957)

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

1. *The Alberta Labour Act*, being chapter 167 of the Revised Statutes of Alberta, 1955, is hereby amended.

2. Section 3 is amended by striking out the words and figures "Part VI General.....Sections 109 to 116" and by substituting the following:

Section 3 amended

"Part VI Equal Pay Sections 109 to 117
"Part VII General Sections 118 to 126".

3. Section 6 is amended by adding immediately after subsection (1) the following new subsection:

Section 6 amended

"(1a) Notwithstanding the provisions of subsection (1), the Lieutenant Governor in Council may appoint a vice-chairman, not being a member of the Board, who may act as Chairman of the Board during the Chairman's absence, and who shall be deemed to be a member of the Board while so acting."

4. Section 9, subsection (2) is amended by striking out the words and numerals "Part I, II, III or IV or of any order, regulation or schedule" and by substituting the words and numerals "Part I, II, III, IV or VI or of any order, regulation, direction or schedule".

Section 9 amended

5. Section 10, subsection (1) is amended by adding immediately after clause (a) the following new clause:

Section 10 amended

"(a1) to require any employer to produce for inspection any books, records, pay-rolls, contracts of employment and any other records of employment,".

6. Section 11 is amended

Section 11 amended

(a) as to subsection (1)

(i) by striking out the words "or, with the consent of the Board, at his principal place of business in the Province",

(ii) by striking out clauses (f) and (g) and by substituting the following:

- “(f) each annual vacation granted, showing
- “(i) the dates of commencement and completion,
- “(ii) the period of employment covered by the annual vacation, and
- “(iii) the amount of vacation pay given.
- “and
- “(g) the amount of money paid in lieu of vacation with pay upon the termination of employment,
- except an employer may with the consent of the Board maintain such records in whole or in part, at his principal place of business in the Province.”,

(b) as to subsection (4), clause (b) by adding immediately after the words “for the inspection of the Board” the words “or an inspector designated by the Board”.

Section 14
amended

7. Section 14 is amended by striking out subsection (2) and by substituting the following:

“(2) Where the limit of hours of work is exceeded under this section an employer shall send by mail to the Board, not later than fifteen days following the last day of the calendar month in which the limit of hours of work was exceeded, a report setting out

- “(a) the reason for exceeding the limit,
- “(b) the number of employees employed in the exceeding of the limit, and
- “(c) the extent by which the limit was exceeded, during the calendar month.”.

Section 15
amended

8. Section 15, subsection (1) is amended by adding immediately before the word and figure “subsection (1)” the words and letter “clause (a) of”.

Section 16
amended

9. Section 16 is amended

- (a) as to subsection (1) by striking out the words “An employer shall allow each of his employees twenty-four consecutive hours of rest in each period of seven consecutive days” and by substituting the words “An employer shall allow an employee not less than twenty-four consecutive hours of rest immediately following each period of not more than six consecutive days of work”,
- (b) as to subsection (2), clause (a) by adding immediately after the word “may” the words “except or”,

- (c) by striking out subsection (3) and by substituting the following:

“(3) Any exception or order made pursuant to this section may provide for consecutive rest periods in relation to a work period of four weeks or a rest period in relation to such other work period as the Board may deem proper.”.

10. Section 18, subsection (3) is amended by adding immediately after the words “notice of the change of shift” the words “, except in case of accident or in case of urgent work to be done to machinery or plant or in case of unforeseeable or unpreventable circumstances”. Section 18
amended

11. Section 23 is amended Section 23
amended

- (a) by striking out the word “or” where it occurs at the end of clause (a),
- (b) by adding immediately at the end of clause (b) the word “, or”,
- (c) by adding immediately after clause (b) the following clause:
- “(c) in excess of the hours of work fixed by a shift schedule of work in an operation which is ordinarily continuous approved by the Board under the provisions of section 16.”.

12. Section 29, subsection (1) is amended Section 29
amended

- (a) by striking out the word “or” where it occurs at the end of clause (a),
- (b) by adding immediately at the end of clause (b) the word “, or”,
- (c) by adding immediately after clause (b) the following clause:
- “(c) by making a deduction from the minimum wage fixed by the Board prohibited under the provisions of the order.”.

13. Section 31 is repealed. Section 31
repealed

14. Section 34 is amended Section 34
amended

- (a) by striking out subsection (1) and by substituting the following:

“**34.**(1) No child shall be employed Employment
of child

- “(a) in any employment in or about the premises of any factory, shop or office building, or
- “(b) in any other employment without the written consent of his parent or guardian and the approval of the Board.”,

- (b) by adding immediately after subsection (2) the following subsection:

“(3) Notwithstanding subsection (1), the Lieutenant Governor in Council may by regulation

“(a) subject to sections 55, 58 and 62 of *The Child Welfare Act*, permit the employment of children in specific occupations, and

“(b) prohibit the employment of boys and girls of fifteen to eighteen years of age, inclusive, in any employment that the Lieutenant Governor in Council considers likely to be injurious to life, limbs, health, education or morals.”.

New section
41a

15. The following new section is added immediately after section 41:

Statement
by
employer

“**41a.** (1) An employer who employs eleven or more employees shall at the end of each pay period give to each employee a statement in writing setting out, for that pay period,

“(a) the hours worked by the employee,

“(b) the amount of wages paid at a straight-time rate,

“(c) the amount of wages paid at an overtime rate,

“(d) the amount of any bonus or living allowance paid, and

“(e) the amount of each deduction from the earnings of the employee and the purpose for which each deduction was made.

“(2) An employer who employs less than eleven employees shall upon request give to an employee a statement showing the information required under subsection (1).

“(3) An employer shall upon request give to an employee a detailed statement as to the computation of the amount of wages and bonus set out in the statement referred to in subsection (1).

“(4) An employer shall upon request give to an employee after termination of his employment a written statement showing the period of time during which he was employed.”.

Section 42
amended

16. Section 42, subsection (1), clause (b) is amended by striking out the words “Chairman or chief inspector” and by substituting the words “Chairman, chief inspector or inspector”.

Section 43
amended

17. Section 43 is struck out and the following is substituted:

Vacation
with pay

“**43.** (1) After holding such inquiry as the Board considers adequate the Board may, with the approval of the Lieutenant Governor in Council, make an order or orders

“(a) requiring an employer in any employment or class of employment to give one week’s annual vacation with regular pay to each of his employees after each such employee has been employed for one full year,

“(b) requiring the employer to give a longer annual vacation not exceeding two weeks with regular pay,

“(c) establishing the period of employment required to entitle the employee to such longer annual vacation, and

“(d) determining

“(i) the number of hours of work that will constitute a day's work or a week's work,

“(ii) the number of days worked that will constitute a month and a year,

“(iii) what will constitute a regular wage, and

“(iv) the method of computing the regular wage.

“(2) Where the employment of any employee is seasonal or intermittent and the time worked in any year does not constitute a year's employment as determined by the Board pursuant to clause (d) of subsection (1), the Board after making such inquiry and with such approval as aforesaid may make an order

“(a) requiring the employer to give the employee an annual vacation with regular pay for a period not exceeding two weeks, and

“(b) establishing the number of days worked in any year that will entitle the employee to receive a vacation with pay, and the number of days of vacation with pay that the days worked will entitle the employee to receive.

“(3) Notwithstanding the other provisions of this section, the Board after making such inquiry and with such approval as aforesaid may make an order

Payment in
lieu of
vacation

“(a) providing that where the employment of an employee ends during the course of a working year in respect of which the employee has not received an annual vacation, the employer shall at the end of the employment pay to the employee in lieu of vacation with pay and in addition to all other amounts due to him, such portion of his regular pay as the Board may declare to be a proper portion thereof having regard to the time worked by such employee as related to the working year, or

“(b) providing that each employer in a specified industry or industries shall give to his employees vacation credits at the end of each working day, working week or other regular pay period in the shape of stamps to be affixed in a vacation with pay book or otherwise as set out in the order, and prescribing the method of ascertaining the credits to which the employee shall be entitled and when he shall be entitled to receive payment in cash for such credits.

“(4) Upon the publication in *The Alberta Gazette* of an order made pursuant to subsection (3)

- “(a) an employer who while the order remains in effect accepts a vacation with pay book deposited by his employee shall keep it safely and return it to the employee on demand, and
- “(b) an employer who while the order remains in effect is by reason of loss or misplacement unable to return to an employee on demand a vacation with pay book deposited with him by the employee shall, within one week after demand for the vacation with pay book is made, issue to the employee a new vacation with pay book to which the employer shall affix vacation with pay stamps or other credits
 - “(i) equal in value to the vacation with pay credits that were affixed to the vacation with pay book at the time it was deposited with the employer, and
 - “(ii) in an amount equivalent to the vacation with pay credits earned by the employee while employed by the employer.

“(5) For the purpose of computing the vacation with pay or vacation with pay credits to which the employee is entitled where a business or part thereof is sold, leased or transferred, the employment of the employee shall be deemed to be continuous and uninterrupted by such sale, lease or transfer.

Offence
and
penalty

“(6) Any employer

“(a) who contravenes any of the provisions of this section, or

“(b) who contravenes any order of the Board made under this section

“(i) by failing to give his employees vacation with pay,

“(ii) by failing to pay an employee a sum in lieu of vacation with pay upon the ending of the employee's employment, or

“(iii) by failing to place vacation with pay credits in a vacation with pay book,

is guilty of an offence and liable on summary conviction to a fine of not less than ten dollars and not more than five hundred dollars.

“(7) The magistrate before whom any employer is convicted under subsection (6) shall, in addition to imposing the fine,

“(a) order the employer to give a vacation with pay to the employee within such time as may be fixed by the court,

“(b) where the employment has ended, order the employer to pay to the employee or into court on behalf of the employee all moneys to which the employee is entitled in lieu of such vacation with pay, or

“(c) order the employer to pay to the employee an amount equivalent to the vacation with pay credits to which the employee is entitled, unless such amount has already been paid.

“(8) In default of the payment of the fine under subsection (6) or compliance with the order made under subsection (7), the employer is guilty of an offence and liable on summary conviction to imprisonment for a term of not less than ten and not more than ninety days.

“(9) A prosecution for an offence under this section may be commenced within twelve months from the date upon which the alleged offence occurred.

“(10) To recover any moneys payable pursuant to the provisions of an order made under subsection (7) the employee may distrain under *The Seizures Act* upon the goods and chattels of the employer.”.

18. Section 44 is repealed.

Section 44
repealed

19. Section 48 is amended

Section 48
amended

(a) as to subsection (3)

(i) by striking out the words “and prescribe the hours of the day during which such hours of work may be performed” where they occur in clause (a),

(ii) by striking out the word “holidays” where it occurs in clause (k) and by substituting the word “vacation”,

(b) as to subsection (4)

(i) by striking out the word “holidays” where it occurs in clause (c) and by substituting the word “vacation”,

(ii) by adding immediately after the word and figure “Part III” the words and figure “and Part VI”.

20. Section 52 is amended

Section 52
amended

(a) as to subsection (1)

(i) by striking out the word “or” where it occurs at the end of clause (a),

(ii) by adding immediately at the end of clause (b) the word “, or”,

(iii) by adding immediately after clause (b) the following clause:

“(c) shall fail to give an employee a vacation with pay as defined by the schedule applying to the industry in which the employee and employer are engaged.”,

(b) as to subsection (2)

(i) by striking out the word “and” where it occurs at the end of clause (a),

- (ii) by adding immediately at the end of clause (b) the word “, and”,
- (iii) by adding immediately after clause (b) the following clause:
“(c) shall pay to the employee an amount equivalent to the vacation with pay credits to which the employee is entitled, unless such amount has already been paid.”.

Sections 55
to 108
amended

21. Part V of the Act, sections 55 to 108, is amended by striking out the words “board of arbitration” wherever they occur and by substituting the words “conciliation board”.

Section 55
amended

22. Section 55 is amended

- (a) as to subsection (1), clause (j), subclause (i) by adding immediately after the words “employers and employees” the words “which has a written constitution, rules or by-laws setting forth its objects and purposes and defining the conditions under which persons may be admitted as members thereof and continue in such membership”,
- (b) as to subsection (2)
 - (i) by striking out the words “an application for” where they occur in clause (b) and by substituting the words “the date of”,
 - (ii) by striking out the word and letter “or (b)” and by substituting the words and letter “or the date referred to in clause (b)”.

Section 59
amended

23. Section 59, subsection (4) is amended

- (a) by striking out the word “or” where it occurs at the end of clause (a),
- (b) by adding immediately after clause (a) the following clause:
“(b) at any time within the two months prior to the end of the term of the collective agreement when the term of the collective agreement is expressed in terms other than even years, or”,
- (c) by relettering the present clause (b) as clause (c).

Section 62
amended

24. Section 62, subsection (2), clause (b) is amended by adding immediately after the words “being exclusive of” the words “Saturdays and”.

Section 66
amended

25. Section 66 is amended by adding immediately after subsection (4) the following subsection:

“(5) Where a legal strike or lock-out is in effect no application under subsection (1) shall be made without the consent of the Board.”.

Section 75
repealed

26. Section 75 is repealed.

27. Section 78 is amended by adding immediately after the words "pension rights or" the word "pension". Section 78
amended

28. Section 86, subsection (2) is amended by striking out the word "arbitrators" and by substituting the word "members". Section 86
amended

29. Section 87 is amended Section 87
amended

- (a) as to subsection (1) by striking out the word "arbitrator" wherever it occurs and by substituting the words "a member of the conciliation board",
- (b) as to subsection (2) by striking out the words "arbitrators" and "arbitrator" wherever they occur and by substituting the words "members" and "member", respectively,
- (c) as to subsection (4)
 - (i) by striking out the words "as arbitrator" and by substituting the words "as a member of the conciliation board",
 - (ii) by striking out the words "an arbitrator" where they occur in clauses (a) and (b) and by substituting the words "a member",
- (d) as to subsection (5) by striking out the words "arbitrators" and "arbitrator" wherever they occur and by substituting the words "members" and "member", respectively.

30. Section 88 is amended Section 88
amended

- (a) by striking out the words "arbitrator" and "arbitrators" wherever they occur and by substituting the words "member" and "members", respectively,
- (b) as to subsection (2)
 - (i) by striking out the words "three years" where they occur in clause (b) and by substituting the words "one year",
 - (ii) by striking out the word "arbitration" where it occurs in clause (c) and by substituting the words "the board",
 - (iii) by striking out the word "arbitration" where it occurs in clauses (d) and (e) and by substituting the word "dispute",
- (c) as to subsection (6) by striking out the words "hear and determine the dispute" and by substituting the words "make full inquiry and shall endeavour to bring about agreement between the parties in relation to the matters referred to it".

31. Section 89, subsection (2) is amended by striking out the words "It is lawful for the members of the board of arbitration by a summons under their hands" and by substituting the words "The conciliation board by a summons under the hands of its members". Section 89
amended

Section 92
amended

32. Section 92 is amended

- (a) by striking out subsections (2) and (3),
- (b) as to subsection (4) by striking out the words "present at a sitting".

Section 93
amended

33. Section 93 is amended

- (a) as to subsection (3), clause (a) by striking out the words "the application for",
- (b) by adding immediately after subsection (12) the following subsection:

"(13) No court shall have power or jurisdiction to enforce any award under this Part unless both parties to the dispute have accepted the award pursuant to the provisions of this section."

Section 94
amended

34. Section 94, subsection (1) is amended by adding immediately after the word and figures "section 82" the words and figures "or the appointment of a conciliation commissioner pursuant to subsection (5) of section 82".

Sections 95
and 96
amended

35. Sections 95 and 96 are struck out and the following are substituted:

Illegal strike
or lock-out

"95. A strike or lock-out is illegal where the parties to the dispute have not complied with the provisions of sections 82 to 94.

Penalty for
participation
in illegal
lock-out

"96. (1) An employer who causes or participates in an illegal lock-out is guilty of an offence and liable on summary conviction to a fine not exceeding one dollar for each employee for each day or part of a day that the employee is locked out.

"(2) Any person being

"(a) an officer, agent or representative of any employer or employers' organization who causes or participates in an illegal lock-out,

"(b) an officer or representative of a trade union or employees' organization who authorizes, calls or consents to an illegal strike, or

"(c) a person acting or representing himself as acting on behalf of a trade union or employees' organization who authorizes, calls or consents to an illegal strike,

is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars for each day or part of a day that the illegal strike or lock-out exists.

"(3) Any employee who participates in an illegal strike is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars."

Section 97
amended

36. Section 97 is amended by striking out subsection (1) and by substituting the following:

"97. (1) A trade union or an employees' organization that authorizes, calls or consents to an illegal strike is guilty of an offence and liable on summary conviction to a fine not exceeding one dollar for each person for each day or part of a day that the person participated in the illegal strike."

Penalty for
illegal strike

37. Sections 99 and 100 are repealed.

Sections 99
and 100
repealed

38. Section 101 is amended

Section 101
amended

(a) as to subsection (1) by striking out the word "request" and by substituting the word "authorize",

(b) as to subsection (2) by striking out the word "requested" and by substituting the word "authorized".

39. Section 103 is amended by striking out subsection (1).

Section 103
amended

40. Section 104 is struck out and the following heading and section are substituted:

Section 104
amended

"Vote on Direction of Minister

"104. The Board

Board may
direct vote

"(a) may on the request of the employer or on receipt of a petition signed by not less than fifty per cent of the employees, and

"(b) shall on the direction of the Minister, direct a vote to be taken under its supervision on any question involving the relations between the employer and his employees in a unit as to which it is desirable to have an expression of opinion of the majority of the employees."

41. The following new Part is added immediately after section 108:

New Part VI

"PART VI

"EQUAL PAY

"109. (1) No employer shall employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer for identical or substantially identical work.

Equal pay

"(2) Work for which a female employee is employed and work for which a male employee is employed shall be deemed to be identical or substantially identical if the job, duties or services the employees are called upon to perform are identical or substantially identical.

"(3) A difference in the rate of pay between a female and male employee based on any factor other than sex does

not constitute a failure to comply with this section if the factor on which the difference is based would normally justify such a difference.

Complaint

“110. (1) A female employee may make a complaint in writing to the Chairman that the employee has been paid a lesser rate of pay than that to which she was entitled to under section 109.

“(2) The Chairman may designate an inspector who shall investigate the complaint and endeavour to effect a settlement.

“(3) Where the inspector is unable to effect a settlement the Chairman may refer the complaint to the Board.

Hearing

“111. (1) Upon a complaint being referred to the Board by the Chairman, the Board shall fix a time for a hearing and shall give such notice as it deems proper to the interested parties.

“(2) The employer and the employee may be represented at the hearing and may present evidence and make submissions.

“(3) If any party properly served with notice of the hearing fails to attend or to be represented, the Board may proceed as if the party had duly attended or had been represented.

Directions
after inquiry

“112. The Board, after completing its inquiry and determining the merits of the complaint, may issue to the parties directly affected, whatever direction it deems necessary under the provisions of this Part and such direction of the Board is final and shall be complied with in accordance with its terms.

Offence
and
penalty

“113. (1) If an employer contravenes a provision of this Part he is guilty of an offence and liable on summary conviction

“(a) if an individual, to a fine not exceeding one hundred dollars, and

“(b) if a corporation, to a fine not exceeding five hundred dollars.

“(2) The convicting magistrate shall upon the conviction order the employer to pay to an employee an amount equal to the additional remuneration the employee would have received if the employer had complied with the provisions of section 109 during the period from six months preceding the institution of the prosecution or the date of termination of her services, whichever first occurs, to the date of the conviction.

Proof of
direction

“114. A copy of any direction of the Board made under this Part having endorsed thereon a certificate purporting to be signed by the secretary stating that the copy is a true copy of the direction shall be received in evidence in any court as *prima facie* proof of the direction and the contents thereof without proof of the appointment or signature of the secretary.

"115. A complaint, information, direction or order under this Part may relate to one or more offences by one employer with regard to one or more of his employees.

Combining
several
charges

"116. (1) Where an employee is paid less than the wage to which she is entitled under this Part, the employee is entitled to recover from her employer, in a civil action, the difference between the amount paid and the amount to which she is entitled, with costs of action, but no action shall be brought by an employee under this section whether before or after the termination of the services, unless the action is commenced within twelve months from the date upon which the cause of action first accrued.

Recovery
by civil
action

"(2) Subsection (1) applies only with respect to the wages of an employee during the period of six months last preceding the termination of her services or the taking of civil action by her pursuant to that subsection, whichever event first occurs.

"(3) Where a complaint has been made under subsection (1) of section 110 no action shall be commenced under subsection (1) and where an action has been commenced under subsection (1) no complaint made under subsection (1) of section 110 shall be proceeded with.

"117. This Part does not apply to any employer and employee who are bound by a collective agreement that was entered into prior to the day upon which this Part comes into force, during

Application
of Part

"(a) the period that the collective agreement is in force, or

"(b) a period of one year from the coming into force of this Part,

whichever is the shorter period."

42. The present Part VI and sections 109 to 115 are renumbered as Part VII and sections 118 to 124, respectively.

Sections
renumbered

43. The following new section is added immediately after the renumbered section 124:

New section
125

"125. (1) No prosecution for an offence under Part II, V or VI shall be instituted except with the consent in writing of the Minister.

Prosecutions

"(2) A consent by the Minister to the prosecution of a person named in the consent for an offence under Part II, V or VI, and

"(a) alleged to have been committed on, or

"(b) in the case of a continuing offence, alleged to have commenced on,

a date set out in the consent, is a sufficient consent for the prosecution of the person named in the consent for any offence under Part II, V or VI committed on or commencing on the date set out in the consent."

Section
renumbered

44. The present section 116 is renumbered as section 126.

Coming
into force

45. This Act comes into force on the day upon which the Revised Statutes of Alberta, 1955, come into force.