



Province of Alberta

FAIR AND FAMILY-FRIENDLY WORKPLACES ACT

Statutes of Alberta, 2017
Chapter 9

(not in force provisions only current as of September 1, 2017)

Office Consolidation

© Published by Alberta Queen's Printer

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FAIR AND FAMILY-FRIENDLY WORKPLACES ACT

Chapter 9

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

Part 1 Employment Standards Code

Amends RSA 2000 cE-9

1 The *Employment Standards Code* is amended by this Part.

2 Section 1(1) is amended

(a) by renumbering clause (a) as clause (a.1) and by adding the following before clause (a.1):

(a) “administrative penalty” means an administrative penalty required to be paid under section 123.1(1);

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

(a.2) “appeal body” means the appeal body established or designated under section 69;

(a.3) “authorizing or enforcement instrument” means a permit, an order of an officer, an order of the Director, a decision of an appeal body, a variance or an exemption under section 74 or 74.1, a notice of an officer under section 77 or 78.1, a direction under section 79, a single employer declaration under section 80 and a director’s certificate under section 112;

(c) by repealing clause (b) and substituting the following:

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

- (d) in clause (c) by striking out “given” and substituting “served”;**
- (e) by repealing clause (d.1);**
- (f) by repealing clause (f);**
- (g) by repealing clause (o);**
- (h) by repealing clause (p) and substituting the following:**
 - (p) “medical certificate” means a statement signed by a physician who is entitled to practise medicine under the laws of the jurisdiction in which the physician practises or by a member of another health profession authorized by the regulations for the purpose of this clause;
- (i) by adding the following after clause (q):**
 - (q.1) “notice of administrative penalty” means a notice served under section 123.1(1);
- (j) by adding the following after clause (s):**
 - (s.1) “overtime hours” means overtime hours determined in accordance with section 21;
 - (s.2) “overtime rate” means the hourly rate of pay for overtime hours;
- (k) by repealing clause (t.2);**
- (l) by adding the following before clause (u):**
 - (t.3) “termination notice period” means the period commencing from the date the termination notice is given by the employer or the employee and ending on the date the employment terminates;
- (m) by repealing clause (w).**

3 Section 2 is amended

- (a) in subsection (1) by striking out “section” and substituting “Part”;**
- (b) in subsection (2) by striking out “maternity and parental leave, reservist leave or compassionate care leave” and substituting “leaves under Divisions 7 to 7.6”;**

(c) by repealing subsections (3) and (4).

4 The following is added after section 2:

Farm and ranch exemptions

2.1(1) The following do not apply to employees who are employed in a farming or ranching operation referred to in subsection (4) or to their employer while acting in the capacity of employer of those employees:

- (a) sections 16 and 18 of Part 2, Division 3, Hours of Work;
- (b) Part 2, Division 4, Overtime and Overtime Pay.

(2) Despite subsection (1), this Act does not apply to employees described in subsection (3) who are employed in a farming or ranching operation referred to in subsection (4) or to their employer while acting in the capacity of employer of those employees.

(3) The following are employees that are described for the purpose of subsection (2):

- (a) an employee who is a shareholder of a corporation engaged in a farming or ranching operation of which all shareholders are family members of the same family;
- (b) an employee who is a family member of a shareholder of a corporation engaged in a farming or ranching operation of which all shareholders are family members of the same family;
- (c) an employee who is a family member of a sole proprietor engaged in a farming or ranching operation;
- (d) an employee who is a family member of a partner in a partnership engaged in a farming or ranching operation where all partners are family members of the same family.

(4) For the purposes of subsections (1) and (2) an employee is employed in a farming or ranching operation if the employee's employment is directly related to

- (a) the primary production of eggs, milk, grain, seeds, fruit, vegetables, honey, livestock, diversified livestock animals within the meaning of the *Livestock Industry Diversification Act*, poultry or bees, or

- (b) any other primary agricultural operation specified in the regulations.

(5) In this section, “family member”, in relation to a shareholder, sole proprietor or partner, means

- (a) the spouse or adult interdependent partner of the shareholder, sole proprietor or partner, or
- (b) whether by blood, marriage or adoption or by virtue of an adult interdependent relationship, a child, parent, grandparent, sibling, aunt, uncle, niece, nephew or first cousin of the shareholder, sole proprietor or partner or of the shareholder’s, sole proprietor’s or partner’s spouse or adult interdependent partner,

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

Exemptions, modifications and substitutions

2.2 Despite anything in this Act, regulations under section 138 may

- (a) exempt an employment, employer or employee from Part 2 or any provision of it, and
- (b) vary or substitute any provision of Part 2 in respect of an employment, employer or employee.

5 Section 3 is amended

- (a) **in subsection (1)(b)(i) by striking out** “maternity and parental leave, reservist leave, compassionate care leave” **and substituting** “leaves of the types described in Divisions 7 to 7.6”;
- (b) **in subsection (2) by striking out** “, maternity and parental leave, reservist leave or compassionate care leave” **and substituting** “or leaves of the types described in Divisions 7 to 7.6”;

6 Section 6 is repealed.

7 The following is added after section 8:

Payment of minimum wage

8.1 An employer must pay an employee at a wage rate that is at least the minimum wage established by regulation.

8 Section 9(1)(a) is amended by adding “or section 137(1) if that section applies” **after** “section 56”.

9 Section 12 is repealed and the following is substituted:

Deductions from earnings

12(1) An employer must not deduct, set off against or claim from the earnings of an employee any sum of money unless allowed to do so by subsection (2).

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

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

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

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

10 Section 14 is amended

(a) in subsection (1) by adding the following after clause (e):

- (f) any other information required by the regulations.

(b) by repealing subsection (4)(f) to (g) and substituting the following:

- (f) copies of documentation relating to a leave under Divisions 7 to 7.6;
- (f.1) copies of overtime agreements under section 23;
- (f.2) copies of hours of work averaging agreements under section 23.1;
- (f.3) copies of parental consents under Division 9;
- (f.4) copies of agreements under section 61.1(1);
- (f.5) copies of permits issued under this Act and the regulations;
- (f.6) copies of exemptions or variances issued under section 74 and 74.1;
- (f.7) any other information required by the regulations;
- (g) copies of any layoff notices or recall notice after a temporary layoff;
- (h) copies of any termination notices.

(c) by adding the following after subsection (5):

(6) No employer, employee or other person shall falsify an employment record or give any false or misleading information in respect of employment records.

11 Section 16(1) is repealed and the following is substituted:

Hours of work confined

16(1) An employer must confine an employee's hours of work within a period of 12 consecutive hours in any one work day unless an accident occurs, urgent work is necessary to a plant or machinery, or other unforeseeable or unpreventable circumstances occur.

12 Section 18 is repealed and the following is substituted:

Rest periods

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

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

- (b) different rest provisions are agreed to pursuant to a collective agreement, or
- (c) it is not reasonable for the employee to take a rest period.

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

13 Section 20 is repealed.

14 Section 22(1) is repealed and the following is substituted:

Overtime pay

22(1) An employer must pay an employee overtime pay for overtime hours at an overtime rate that is at least 1.5 times the employee's wage rate.

15 Section 23 is amended

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

(1.1) An agreement under subsection (1) applies to an employee in a group of employees bound by the agreement whether or not the employee was employed by the employer at the time the agreement was entered into.

(b) in subsection (2)

(i) by repealing clause (a) and substituting the following:

- (a) instead of overtime pay, time off, calculated at 1.5 hours off for each hour of overtime, with pay, will be provided, taken and paid at the employee's wage rate at a time that the employee could have worked and received wages from the employer;

(ii) in clause (b) by adding "at an overtime rate" after "paid overtime pay";

(iii) by repealing clause (c) and substituting the following:

- (c) instead of overtime pay, time off with pay will be provided, taken and paid to the employee within 6 months of the end of the pay period in which it was

earned unless the agreement is part of a collective agreement and the collective agreement provides for a longer period within which the time off with pay is to be provided and taken;

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

- (4)** An employer must comply with an overtime agreement entered into under this section.

16 The following is added after section 23:

Hours of work averaging agreements

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

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

- (a) an employee, or
- (b) a group of employees where the majority of the group agrees.

(3) An agreement under subsection (1) must

- (a) be in writing,
- (b) provide a start date and end date, which must provide for a term that does not exceed 2 years, except that in the case of an agreement that is part of a collective agreement, the agreement terminates the day a subsequent collective agreement is entered into,
- (c) specify the number of weeks over which hours will be averaged, which must not exceed 12 weeks unless authorized by a permit issued by the Director,
- (d) specify the scheduled daily and weekly hours of work, which must not exceed
 - (i) 12 hours per day, and

- (ii) 44 hours per week if the agreement specifies a one-week period, or an average of 44 hours per week if the agreement specifies a period of more than one week;
 - (e) specify the manner in which overtime pay and time off with pay instead of overtime pay will be calculated as provided for in the regulations.
- (4) An agreement under subsection (1) applies to an employee in a group of employees bound by the agreement whether or not the employee was employed by the employer at the time the agreement was entered into.
- (5) The employer must provide every employee to which the agreement applies a copy of the agreement in accordance with the regulations.
- (6) No employer who is a party to an agreement under subsection (1) shall fail to pay overtime in accordance with the agreement or otherwise fail to comply with the agreement.
- (7) The Director may, subject to and in accordance with the regulations, cancel an agreement under subsection (1) and must notify the employer of the cancellation.
- (8) An employer may appeal the decision of the Director under subsection (7) to an appeal body.
- (9) A compressed work week arrangement entered into before the repeal of section 20 that is in effect when this section comes into force remains valid
- (a) until the earlier of the following:
 - (i) one year after the date this section comes into force;
 - (ii) the termination of the compressed work week arrangement,
 - or
 - (b) in the case of a compressed work week agreement made as part of a collective agreement, the day a subsequent collective agreement is entered into.

17 Section 26 is repealed and the following is substituted:

Eligibility for general holiday pay

26 An employee is not entitled to general holiday pay if the employee

- (a) does not work on a general holiday when required or scheduled to do so, or
- (b) is absent from employment without the consent of the employer on the employee's last regular work day preceding, or the employee's first regular work day following, a general holiday.

18 Section 27 is repealed.

19 Section 28 is repealed and the following is substituted:

General holiday pay — not working

28 If an employee does not work on a general holiday, the employer must pay the employee general holiday pay of an amount that is at least the average daily wage of the employee.

20 Section 29 is repealed and the following is substituted:

General holiday pay — working

29 If an employee works on a general holiday, the employer must comply with clause (a) or (b):

- (a) pay the employee general holiday pay of
 - (i) an amount that is at least the average daily wage of the employee, and
 - (ii) an amount that is at least 1.5 times the employee's wage rate for each hour of work of the employee on that day,
- or
- (b) provide the employee with
 - (i) an amount that is at least the employee's wage rate times each hour of work on that day, and
 - (ii) one day's holiday, not later than the employee's next annual vacation, on a day that would normally be a work day for the employee, and general holiday pay for that day of an amount that is at least the employee's average daily wage.

21 Section 30 is repealed.**22 The following is added after section 33:****General holiday pay on termination**

33.1(1) If an employee has not taken a holiday to which the employee is entitled under section 29(b)(ii) and

- (a) the employment of the employee is terminated by the employer, the employee is entitled to be paid general holiday pay calculated under section 29(a) less the amount paid to the employee under section 29(b)(i), or
- (b) the employment of the employee is terminated by the employee, the employee is entitled to be paid at least the employee's average daily wage.

(2) If the employment of an employee is terminated and at the time of termination a general holiday has not been taken under section 31(2), the employer must pay the employee an amount that is at least the employee's average daily wage for each general holiday not taken.

23 Section 34 is amended by striking out "An employee becomes entitled to an annual vacation of at least" **and substituting** "An employer must provide an annual vacation to an employee of at least".

24 The following is added after section 34:**Vacation pay for employee paid monthly**

34.1 For each week of vacation, the employer must pay an employee paid by the month vacation pay of an amount at least equal to the employee's wages for the employee's normal hours of work in a work month divided by 4 1/3.

Vacation pay for employee paid other than monthly

34.2 The employer must pay an employee who is not paid by the month vacation pay of an amount at least equal to,

- (a) for an employee entitled to 2 weeks' vacation or any lesser amount, 4% of the employee's wages for the year of employment for which vacation is given, or
- (b) for an employee entitled to 3 weeks' vacation, 6% of the employee's wages for the year of employment for which vacation is given.

25 Section 36 is amended by striking out “3 months” and substituting “90 days”.

26 Section 37(2) is amended by striking out “one day” and substituting “one-half day”.

27 Section 39 is repealed.

28 Section 40 is repealed.

29 Section 45 is repealed and the following is substituted:

Entitlement to maternity leave

45 A pregnant employee who has been employed by the same employer for at least 90 days is entitled to unpaid maternity leave.

30 Section 46 is amended

(a) by striking out “15 weeks” and substituting “16 weeks”;

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

(1.1) A pregnant employee whose pregnancy ends other than as a result of a live birth within 16 weeks of the estimated due date is entitled to maternity leave under this Division.

31 Section 50(1) is repealed and the following is substituted:

Parental leave

50(1) Subject to subsection (2), an employer must grant parental leave to an employee as follows:

- (a)** in the case of an employee entitled to maternity leave under this Division other than an employee described in section 46(1.1), a period of not more than 37 consecutive weeks immediately following the last day of maternity leave;
- (b)** in the case of a parent who has been employed by the same employer for at least 90 days, a period of not more than 37 consecutive weeks within 53 weeks after the child’s birth;

- (c) in the case of an adoptive parent who has been employed by the same employer for at least 90 days, a period of not more than 37 consecutive weeks within 53 weeks after the child is placed with the adoptive parent for the purpose of adoption.

32 Section 52(1) is repealed and the following is substituted:

**Termination of employment prohibited during
maternity leave and parental leave**

52(1) No employer may terminate the employment of, or lay off,

- (a) an employee who has started maternity or parental leave, or
- (b) an employee because the employee is entitled to maternity or parental leave.

33 Section 53.9 is repealed and the following is substituted:

Compassionate care leave

53.9(1) In this Division,

- (a) “common-law partner” means a person who at the relevant time cohabits in a conjugal relationship with the employee and has so cohabited with the employee for a continuous period of at least one year;
- (b) “family member”, in relation to an employee, means
 - (i) a spouse or common-law partner of the employee,
 - (ii) a child of the employee or a child of the employee’s spouse or common-law partner,
 - (iii) a parent of the employee or a spouse or common-law partner of the parent, and
 - (iv) any other person who is a member of a class of persons designated in the regulations for the purpose of this definition.

(2) Subject to this section, an employee who has been employed by the same employer for at least 90 days is entitled to unpaid compassionate care leave for a period of up to 27 weeks for the purpose of providing care or support to a seriously ill family member.

(3) If more than one employee who is employed by the same employer is entitled to compassionate care leave with respect to the same family member, the employer is not required to grant the leave to more than one employee at a time.

(4) The employee must provide to the employer a medical certificate stating that

(a) the family member, named in the certificate, has a serious medical condition with a significant risk of death within 26 weeks from

(i) the day the certificate is issued, or

(ii) if the leave was begun before the certificate was issued, the day the leave began,

and

(b) the family member requires the care or support of one or more family members.

(5) The employee must provide a copy of the medical certificate under subsection (4) before commencing compassionate care leave unless the employee is unable to do so, in which case the employee must provide the certificate as soon as is reasonable and practicable in the circumstances.

(6) An employee who wishes to take compassionate care leave must give the employer at least 2 weeks' written notice, which notice must also include the estimated date of the employee's return to work, unless a shorter notice period is necessary in the circumstances, in which case the notice must be provided as soon as is reasonable and practicable in the circumstances.

(7) The employee must inform his or her employer of any change in the estimated date of returning to work.

(8) Compassionate care leave may be taken in one or more periods but no period may be less than one week's duration.

(9) Compassionate care leave ends on the earliest of the following occurrences:

(a) the last day of the work week in which the family member named in the medical certificate referred to in subsection (4) dies;

(b) the 27 weeks of compassionate care leave ends;

- (c) the last day of the work week in which the employee ceases to provide care or support to the seriously ill family member.

34 Section 53.92 is repealed and the following is substituted:

Notice to return to work

53.92(1) If an employee has been on compassionate care leave, he or she must provide at least one week's written notice of the date the employee intends to return to work unless the employer and the employee agree otherwise.

(2) When an employee returns to work under this section, the employer must

- (a) reinstate the employee in the position occupied when the leave started, or
- (b) provide the employee with alternative work of a comparable nature at not less than the earnings and other benefits that had accrued to the employee when the leave started.

(3) An employee who does not wish to resume employment after the leave ends must give the employer at least 2 weeks' written notice of the employee's intention to terminate employment.

35 The following is added after section 53.94:

**Division 7.3
Death or Disappearance
of Child Leave**

Death or disappearance of child leave

53.95(1) In this Division,

- (a) "child" means a person who is under 18 years of age;
- (b) "common-law partner" has the same meaning as in section 53.9(1)(a);
- (c) "crime" means an offence under the *Criminal Code* (Canada);
- (d) "parent" means
 - (i) a parent of a child,

- (ii) the spouse or common-law partner of a parent of a child,
- (iii) a person with whom a child has been placed for the purposes of adoption,
- (iv) the guardian or a foster parent of a child, or
- (v) a person who has the care, custody or control of a child whether or not they are related by blood or adoption.

(2) Subject to this section, an employee who has been employed by the same employer for at least 90 days is entitled to an unpaid leave as follows:

- (a) a period of up to 52 weeks if the employee is the parent of a child who has disappeared and it is probable, considering the circumstances, that the child disappeared as a result of a crime, or
- (b) a period of up to 104 weeks if the employee is the parent of a child who has died and it is probable, considering the circumstances, that the child died as a result of a crime.

(3) An employee is not entitled to death or disappearance of child leave if he or she is charged with the crime that resulted in the death or disappearance of the child.

(4) The employee must provide the employer with reasonable verification of the employee's entitlement to the leave as soon as is reasonable and practicable in the circumstances.

(5) The period during which an employee may take death or disappearance of child leave

- (a) begins on the day on which the death or disappearance, as the case may be, occurs, and
- (b) ends, subject to subsections (8) to (10),
 - (i) in the case of leave under subsection (2)(a), 52 weeks after the day on which the disappearance occurs, or
 - (ii) in the case of leave under subsection (2)(b), 104 weeks after the day on which the death occurs.

(6) An employee who wishes to take death or disappearance of child leave must give the employer written notice as soon as is

reasonable and practicable in the circumstances, which notice must include the estimated date of the employee's return to work.

(7) The employee must inform his or her employer of any change in the estimated date of returning to work.

(8) In the case of a child who disappears and who is subsequently found, the period referred to in subsection (5) ends

- (a) if the child is found alive, 14 days after the day on which the child is found but no later than the end of the 52-week period, or
- (b) if the circumstances in subsection (2)(b) apply, 104 weeks after the day on which the disappearance occurred.

(9) For greater certainty, death or disappearance of child leave ends on the day on which the circumstances are such that it is no longer probable that the death or disappearance was the result of a crime.

(10) If an employee takes death or disappearance of child leave and is charged with the crime, leave ends on the day on which the employee is charged.

Termination of employment

53.951(1) No employer may terminate the employment of, or lay off, an employee who has started death or disappearance of child leave.

(2) Subsection (1) does not apply if an employer suspends or discontinues in whole or in part the business, undertaking or other activity in which the employee is employed, but the obligation of the employer to reinstate the employee or provide the employee with alternative work in accordance with section 53.953 continues to apply.

Notice to return to work

53.952(1) If an employee has been on death or disappearance of child leave, he or she must provide at least one week's written notice of the date the employee intends to return to work unless the employer and the employee agree otherwise.

(2) When an employee returns to work under this section, the employer must

- (a) reinstate the employee in the position occupied when the death or disappearance of child leave started, or
- (b) provide the employee with alternative work of a comparable nature at not less than the earnings and other benefits that had accrued to the employee when the death or disappearance of child leave started.

(3) An employee who does not wish to resume employment after the leave ends must give the employer at least 2 weeks' written notice of the employee's intention to terminate employment.

Suspension of operations

53.953 If the business, undertaking or other activity of an employer is suspended or discontinued in whole or in part during the employee's death or disappearance of child leave and the employer has not resumed operations when the leave ends, the employer must, if the operation is subsequently resumed within 52 weeks following the end of the leave,

- (a) reinstate the employee in the position occupied at the time the leave started at not less than the earnings and other benefits that had accrued to the employee, or
- (b) provide the employee with alternative work in accordance with an established seniority system or practice of the employer in force at the time the employee's leave started, with no loss of seniority or other benefits accrued to the employee.

Leave and vacation conflict

53.954 Notwithstanding section 37(1), if an employee is on death or disappearance of child leave on the day by which his or her vacation must be used, any unused part of the vacation must be used immediately after the leave expires or, if the employer and employee agree to a later date, by that later date.

Division 7.4 Critical Illness of Child Leave

Critical illness of child leave

53.96(1) In this Division,

- (a) "child" means a person who is under 18 years of age;
- (b) "common-law partner" has the same meaning as in section 53.9(1)(a);
- (c) "parent" means

- (i) a parent of a child,
- (ii) the spouse or common-law partner of a parent of a child,
- (iii) a person with whom a child has been placed for the purposes of adoption,
- (iv) the guardian or a foster parent of a child, or
- (v) a person who has the care, custody or control of a child whether or not they are related by blood or adoption.

(2) Subject to this section, an employee who has been employed by the same employer for at least 90 days and is a parent of a critically ill child is entitled to an unpaid critical illness of child leave of up to 36 weeks for the purpose of providing care or support to the child.

(3) If more than one employee who is employed by the same employer is entitled to critical illness of child leave with respect to the same child, the employer is not required to grant the leave to more than one employee at a time.

(4) If more than one child of the employee is critically ill as a result of the same event, the period during which the employee may take critical illness of child leave

- (a) begins on the earlier of the dates specified in subsection (5)(b) and (d) on the first medical certificate issued in respect of any of the children that are critically ill, and
- (b) ends on the earliest of the following occurrences:
 - (i) the last day of the work week in which the last of the critically ill children dies;
 - (ii) the expiry of 36 weeks following the date leave began under clause (a);
 - (iii) the expiry of the latest period referred to in subsection (5)(c) on the medical certificates for the critically ill children;
 - (iv) the last day of the work week in which the employee ceases to provide care or support to the last of the critically ill children.

- (5)** The employee must provide to the employer a medical certificate stating
- (a) that the child is a critically ill child and requires the care or support of one or more parents;
 - (b) the start date of the period during which the child requires that care or support;
 - (c) the end date of the period during which the child requires that care or support;
 - (d) if the leave was begun before the certificate was issued, the day leave began.
- (6)** The employee must provide a copy of the medical certificate under subsection (5) before commencing critical illness of child leave unless the employee is unable to do so, in which case the employee must provide the certificate as soon as is reasonable and practicable in the circumstances.
- (7)** An employee who wishes to take critical illness of child leave must give the employer at least 2 weeks' written notice, which notice must also include the estimated date of the employee's return to work, unless a shorter notice period is necessary in the circumstances, in which case the notice must be provided as soon as is reasonable and practicable in the circumstances.
- (8)** The employee must inform his or her employer of any change in the estimated date of returning to work.
- (9)** Subject to subsection (4), critical illness of child leave may be taken in one or more periods, but no period may be less than one week's duration.
- (10)** Critical illness of child leave ends on the earliest of the following occurrences:
- (a) the last day of the work week in which the child named in the medical certificate under subsection (5) dies;
 - (b) the period of 36 weeks of leave under this Division ends;
 - (c) the period referred to subsection (5)(c) of the certificate ends;
 - (d) the last day of the work week in which the employee ceases to provide care or support to the critically ill child.

Termination of employment

53.961(1) No employer may terminate the employment of, or lay off, an employee who has started critical illness of child leave.

(2) Subsection (1) does not apply if an employer suspends or discontinues in whole or in part the business, undertaking or other activity in which the employee is employed, but the obligation of the employer to reinstate the employee or provide the employee with alternative work in accordance with section 53.963 continues to apply.

Notice to return to work

53.962(1) If an employee has been on critical illness of child leave, he or she must provide at least one week's written notice of the date the employee intends to return to work unless the employer and the employee agree otherwise.

(2) When an employee returns to work under this section, the employer must

- (a) reinstate the employee in the position occupied when the leave started, or
- (b) provide the employee with alternative work of a comparable nature at not less than the earnings and other benefits that had accrued to the employee when the leave started.

(3) An employee who does not wish to resume employment after the critical illness of child leave ends must give the employer at least 2 weeks' written notice of the employee's intention to terminate employment.

Suspension of operations

53.963 If the business, undertaking or other activity of an employer is suspended or discontinued in whole or in part during an employee's critical illness of child leave and the employer has not resumed operations when the leave ends, the employer must, if the operation is subsequently resumed within 52 weeks following the end of the leave,

- (a) reinstate the employee in the position occupied at the time the leave started at not less than the earnings and other benefits that had accrued to the employee, or
- (b) provide the employee with alternative work in accordance with an established seniority system or practice of the employer in force at the time the

employee's leave started, with no loss of seniority or other benefits accrued to the employee.

Leave and vacation conflict

53.964 Notwithstanding section 37(1), if an employee is on critical illness of child leave on the day by which his or her vacation must be used, any unused part of the vacation must be used immediately after the leave expires or, if the employer and employee agree to a later date, by that later date.

**Division 7.5
Long-term Illness and
Injury Leave****Entitlement to leave**

53.97(1) Subject to subsections (2) to (4), an employee who has been employed by the same employer for at least 90 days is entitled to unpaid leave due to the illness, injury or quarantine of the employee.

(2) For the purpose of subsection (1) the amount of leave under this Division must not exceed 16 weeks in a calendar year.

(3) The employee must provide to the employer a medical certificate stating the estimated duration of the leave.

(4) The employee must provide a copy of the medical certificate under subsection (3) before commencing leave under this Division unless the employee is unable to do so, in which case the employee must provide the certificate as soon as is reasonable and practicable in the circumstances.

(5) An employee who wishes to take leave under this Division must give the employer written notice as soon as is reasonable and practicable in the circumstances, which notice must include the estimated date of the employee's return to work.

(6) The employee must inform his or her employer of any change in the estimated date of returning to work.

Termination of employment

53.971(1) No employer may terminate the employment of, or lay off, an employee who has started leave under this Division.

(2) Subsection (1) does not apply if an employer suspends or discontinues in whole or in part the business, undertaking or other activity in which the employee is employed, but the obligation of the employer to reinstate the employee or provide the employee with alternative work in accordance with section 53.973 continues to apply.

Notice to return to work

53.972(1) If an employee has been on leave under this Division, he or she must provide at least one week's written notice of the date the employee intends to return to work unless the employer and the employee agree otherwise.

(2) When an employee returns to work under this section, the employer must

- (a) reinstate the employee in the position occupied when the leave under this Division started, or
- (b) provide the employee with alternative work of a comparable nature at not less than the earnings and other benefits that had accrued to the employee when the leave under this Division started.

(3) An employee who does not wish to resume employment after the leave under this Division ends must give the employer at least 2 weeks' written notice of the employee's intention to terminate employment.

Suspension of operations

53.973 If the business, undertaking or other activity of an employer is suspended or discontinued in whole or in part during the employee's leave under this Division and the employer has not resumed operations when the leave ends, the employer must, if the operation is subsequently resumed within 52 weeks following the end of the leave,

- (a) reinstate the employee in the position occupied at the time the leave started at not less than the earnings and other benefits that had accrued to the employee, or
- (b) provide the employee with alternative work in accordance with an established seniority system or practice of the employer in force at the time the employee's leave started, with no loss of seniority or other benefits accrued to the employee.

Leave and vacation conflict

53.974 Notwithstanding section 37(1), if an employee is on leave under this Division on the day by which his or her vacation must be used, any unused part of the vacation must be used immediately after the leave expires or, if the employer and employee agree to a later date, by that later date.

Division 7.6 Other Leaves

Definition

53.98 In this Division,

- (a) “family member” in relation to an employee, means a person who is a member of a class of persons designated in the regulations for the purpose of this Division;
- (b) “protected adult” means an assisted adult, represented adult or supported adult as defined in the *Adult Guardianship and Trusteeship Act*.

Domestic violence leave

53.981(1) For the purposes of this Division, domestic violence occurs when an employee, the employee’s dependent child or a protected adult who lives with the employee is subjected to any of the acts or omissions listed in subsection (2) by another person who

- (a) is or has been married to the employee, is or has been an adult interdependent partner of the employee or is residing or has resided together with the employee in an intimate relationship,
- (b) is or has been in a dating relationship with the employee, regardless of whether they have lived together at any time,
- (c) is the biological or adoptive parent of one or more children with the employee, regardless of their marital status or whether they have lived together at any time,
- (d) is related to the employee by blood, marriage or adoption or by virtue of an adult interdependent relationship, regardless of whether they have lived together at any time, or
- (e) resides with the employee and has care and custody over the employee pursuant to an order of a court.

(2) The following acts and omissions constitute domestic violence for the purposes of this Division:

- (a) any intentional or reckless act or omission that causes injury or property damage and that intimidates or harms a person;

- (b) any act or threatened act that intimidates a person by creating a reasonable fear of property damage or injury to a person;
- (c) conduct that reasonably, in all circumstances, constitutes psychological or emotional abuse;
- (d) forced confinement;
- (e) sexual contact of any kind that is coerced by force or threat of force;
- (f) stalking.

(3) An employee who is a victim of domestic violence and has been employed by the same employer for at least 90 days is entitled to unpaid domestic violence leave of up to 10 days in a calendar year.

(4) An employee may take domestic violence leave for one or more of the following purposes:

- (a) to seek medical attention for the employee or the employee's dependent child or a protected adult in respect of a physical or psychological injury or disability caused by the domestic violence;
- (b) to obtain services from a victim services organization;
- (c) to obtain psychological or other professional counselling for the employee or the employee's dependent child or a protected adult;
- (d) to relocate temporarily or permanently;
- (e) to seek legal or law enforcement assistance, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence;
- (f) any other purpose provided for in the regulations.

(5) Before taking a leave under this section, the employee must give the employer as much notice as is reasonable and practicable in the circumstances.

Personal and Family Responsibility Leave

Unpaid leave for personal and family responsibilities

53.982(1) An employee who has been employed by the same employer for at least 90 days is entitled to up to 5 days of unpaid leave in a calendar year, but only to the extent that the leave is necessary

- (a) for the health of the employee, or
- (b) for the employee to meet his or her family responsibilities in relation to a family member.

(2) Before taking a leave under this section, the employee must give the employer as much notice as is reasonable and practicable in the circumstances.

Bereavement Leave

Unpaid bereavement leave

53.983(1) An employee who has been employed by the same employer for at least 90 days is entitled to up to 3 days of unpaid leave in a calendar year on the death of a family member.

(2) Before taking a leave under this section, the employee must give the employer as much notice as is reasonable and practicable in the circumstances.

Leave for Citizenship Ceremony

Unpaid leave for citizenship ceremony

53.984(1) An employee who has been employed by the same employer for at least 90 days is entitled to up to a half-day of unpaid leave to attend a citizenship ceremony to receive a certificate of citizenship, as provided for under the *Citizenship Act* (Canada) and regulations made under that Act.

(2) Before taking a leave under this section, the employee must give the employer as much notice as is reasonable and practicable in the circumstances.

Termination of Employment

Termination of employment

53.985 No employer may terminate the employment of, or lay off, an employee who is on leave under this Division.

36 Section 54 is amended by striking out “3 months” and substituting “90 days”.

37 Section 55 is amended

(a) in subsection (1)

(i) by striking out “Unless subsection (2) applies, an” and substituting “An”;

(ii) by repealing clause (a) and substituting the following:

(a) a termination notice of at least the period of notice required under section 137(1) if that section applies, or in any other case, a termination notice under section 56,

(b) in subsection (2)

(i) by repealing clause (a) and substituting the following:

(a) if the employment of the employee is terminated for just cause,

(ii) in clause (b) by striking out “3 months” and substituting “90 days”.

38 Section 56(a) is amended by striking out “3 months” and substituting “90 days”.

39 Section 57(3) is repealed and the following is substituted:

(3) If the wages of an employee vary from one pay period to another, the employee’s termination pay must be determined by calculating the average of the employee’s wages during the previous 13 weeks in which the employee worked preceding the date of termination of employment.

40 Section 58 is amended

(a) in subsection (1)(a) by striking out “3 months” and substituting “90 days”;

- (b) in subsection (2)(d) by striking out “3 months” and substituting “90 days”.

41 Section 59 is repealed and the following is substituted:

**Expediting termination of employment after
an employee’s termination notice**

59(1) If an employee gives a termination notice that is less than the notice that the employer would have been required to give and the employer wishes to expedite the termination, the employer must pay the wages that the employee would have earned if the employee had worked regular hours for the remainder of the termination notice period that has been given by the employee.

(2) If an employee gives a termination notice that is equal to or more than the notice that the employer would have been required to give and the employer wishes to expedite the termination, the employer must pay the wages that the employee would have earned if the employee had worked regular hours for the remainder of the termination notice period that would have been required to be given by the employer.

42 The following is added after section 61:

Use of entitlements during the notice period

61.1(1) An employer must not require an employee to use banked overtime during the termination notice period unless the employer and employee agree otherwise in writing.

(2) Unless an employer has, prior to the giving of a termination notice, provided the employee with notice to take annual vacation in accordance with section 38, the employer must not require the employee to take the vacation during the termination notice period.

(3) Where an employee has not taken the day’s holiday referred to in section 29(b)(ii), an employer must not require the employee to use it during the termination notice period.

43 Sections 62 to 64 are repealed and the following is substituted:

Temporary layoff

62(1) An employer who wishes to maintain an employment relationship without terminating the employment of an employee may temporarily lay off the employee only by giving the employee a written layoff notice.

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

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

(3) The layoff notice must

- (a) state that it is a temporary layoff notice,
- (b) state the date that the layoff is to commence,
- (c) include a copy of this section and sections 63 and 64, and
- (d) include any other information provided for in the regulations.

Termination pay after temporary layoff

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

- (a) during the layoff the employer, by agreement with the employee,
 - (i) pays the employee wages or an amount instead of wages, or
 - (ii) makes payments for the benefit of the laid-off employee in accordance with a pension or employee insurance plan or similar plan,
- or
- (b) there is a collective agreement binding the employer and employee containing recall rights for employees following layoff.

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

Recall

64(1) An employer may request an employee to return to work by providing the employee with a recall notice.

(2) A recall notice must

- (a) be in writing,
- (b) be served on the employee, and
- (c) state that the employee must return to work within 7 days of the date the recall notice is served on the employee.

(3) If an employee fails to return to work within 7 days of being served with the recall notice, the employee is not entitled to termination notice or termination pay if the employer decides to terminate the employee's employment as a result of the employee's failure to return to work in accordance with the notice.

(4) Subsection (3) does not apply to an employee bound by a collective agreement containing recall rights for employees following a layoff.

44 Sections 65 and 66 are repealed and the following is substituted:

Employment of individuals under 18 years of age

65(1) In this Division,

- (a) "artistic endeavour" means artistic endeavour as defined in the regulations;
- (b) "light work" means light work determined under subsection (2).

(2) The Director must, after consultation in accordance with the regulations, establish a list of the types of employment that are light work for the purposes of this Division and must publish the list on the Minister's department website.

(3) Except as permitted by this Division or the regulations, no person shall employ an individual who is under 18 years of age.

(4) Where a permit is required under this Division, the Director may, on receiving an application signed by the employer and by a parent, guardian or other person having the care, custody or control of the individual in respect of whom the permit is required, issue a permit authorizing the individual to be employed by the employer.

(5) A permit issued by the Director under this section must include any terms and conditions set out in the regulations and may include any other terms and conditions the Director considers appropriate having regard to the age of the individual and the nature of the work.

12 years of age and under

65.1 An individual who is 12 years of age or younger may be employed only in an artistic endeavour and only if authorized under a permit issued by the Director.

13 to 15 years of age

65.2(1) An individual who is 13, 14 or 15 years of age may be employed only

- (a) in an artistic endeavour,
- (b) in a type of employment that is light work, or
- (c) if so authorized under a permit issued by the Director, in any other type of employment, except hazardous work identified in the *Occupational Health and Safety Act* or the regulations under that Act.

(2) Employment referred to in subsection (1)(a) and (b) requires the consent of a parent, guardian or other person having the care, custody or control of the individual.

(3) The consent must be in a form acceptable to the Director.

16 and 17 years of age

65.3(1) Subject to subsection (2), an individual who is 16 or 17 years of age may be employed in any type of employment.

(2) An individual who is 16 or 17 years of age may be employed in hazardous work identified in the *Occupational Health and Safety Act* or the regulations under that Act only if

- (a) the hazardous work is authorized under a permit issued by the Director,
- (b) the individual is supervised by a responsible adult while the work is being performed and is adequately trained before performing any work, and

- (c) the health, safety and well-being of the individual are protected.

45 Division 10 of Part 2 is repealed.

46 Section 69 is repealed and the following is substituted:

Establishment of appeal body

69(1) The Lieutenant Governor in Council may

- (a) establish an appeal body consisting of one or more persons who meet the qualifications established by the regulations;
- (b) designate a body established under another Act or regulation as the appeal body for the purpose of this Act;
- (c) designate a class of persons, the members of which are deemed to be an appeal body for the purpose of this Act, which may include, with the approval of the Chief Judge of The Provincial Court of Alberta, judges of The Provincial Court of Alberta or justices of the peace.

(2) Where an existing body is designated under subsection (1)(b) as the appeal body, the existing body, despite the enactment under which it was established, may carry out the functions of the appeal body under this Act.

(3) The Minister may, by order, establish a code of ethics for members of the appeal body.

(4) An appeal body established under subsection (1)(a) or an appeal body designated under subsection (1)(c) may establish rules of practice and procedures relating to the conduct of appeals under this Act, including establishing panels and quorums for the purpose of its proceedings.

(5) An appeal body designated under subsection (1)(b) may adopt the practice and procedures under the enactment under which it was established and may modify them as required for the purpose of conducting appeals under this Act, including establishing panels and quorums for the purpose of its proceedings.

47 Section 71(3) is repealed.

48 Section 74 is repealed and the following is substituted:

Director's variance or exemption

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

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

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

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

- (a) the provision to be varied or exempted and the extent to which it may be varied or exempted is authorized by the regulations to be varied or exempted under this section, and
- (b) the Director is satisfied that issuing the variance or exemption meets the criteria established by the regulations.

(4) The Director must notify the employer of the decision respecting the issuance of a variance or exemption.

(5) A variance or exemption must

- (a) specify the provisions of this Act or the regulations the application of which is varied or exempted and the extent to which the application of the provisions is varied or exempted,
- (b) identify the employer and the employees of the employer to whom the variance or exemption applies or the employment to which the variance or exemption applies, as the case may be,
- (c) specify the date on which the variance or exemption commences and the date it expires,
- (d) include any terms or conditions that the Director considers appropriate, and
- (e) include any other information required by the regulations.

(6) If the Director grants a variance or exemption, the employer must notify the employees affected by the variance or exemption by

- (a) personally giving a copy of the variance or exemption to the employees,
- (b) posting a copy of the variance or exemption in the employees' workplace,
- (c) posting a copy of the variance or exemption online on a secure website to which the employees have access, or
- (d) providing a copy of the variance or exemption in any other manner that informs the employees of the variance or exemption.

(7) The employer and the employees affected by the variance or exemption must comply with the variance or exemption and any terms and conditions of the variance or exemption.

(8) The Director may, at any time, amend or revoke a variance or exemption issued under this section.

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

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

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

Minister's variance or exemption

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

- (a) with respect to the employers and the employees referred to in the application, or

- (b) with respect to a type of employment carried on by the employers.

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

- (a) specify the provisions of this Act or the regulations the application of which is varied or exempted and the extent to which the application of the provisions is varied or exempted,
- (b) identify the employers and the employees to whom the order applies or the employment to which the order applies, as the case may be,
- (c) specify the term of the order, which must not exceed 2 years,
- (d) include any terms or conditions that the Minister considers appropriate, and
- (e) include any other information required by the regulations.

(3) An order made under subsection (1) shall not be renewed.

(4) The employers and the employees affected by an order must comply with the order and any terms and conditions of the order.

(5) The Minister may, at any time, amend or revoke an order made under this section.

(6) A copy of an order made under subsection (1) or an amendment or revocation made under subsection (5) must be given to the affected employers and employees in accordance with the regulations.

49 Section 77 is repealed and the following is substituted:

Inspections, investigations, inquiries

77(1) An officer may conduct an inspection, investigation or inquiry to determine whether this Act, the regulations or an authorizing or enforcement instrument has been or is being complied with, whether or not the officer has received a complaint.

(2) In conducting an inspection, investigation or inquiry, an officer may do any one or more of the following:

- (a) subject to subsection (6), enter, at any reasonable time, any place other than a private dwelling, including any means of conveyance or transport, where an officer has reason to believe that
 - (i) work is or has been done by employees,
 - (ii) an employer carries on business, or
 - (iii) an employment record or any other relevant record or thing is kept;
 - (b) examine an employment record or any other relevant record or thing;
 - (c) by written notice, require the employer or any other person to produce, at a time, date and place specified in the notice, an employment record or any other relevant record or thing;
 - (d) by written notice, require the employer or any other person to create a report from any employment record or any other relevant record or thing, by a date and in the manner set out in the notice;
 - (e) subject to subsection (5), remove for review and copying an employment record or any other relevant record or thing;
 - (f) use data storage, information processing or retrieval devices or systems that are used by an employer in order to examine a record in readable form;
 - (g) conduct an audit of compliance, or other examination, of employment records or any other relevant records or things or of any employer practices;
 - (h) subject to clause (i), question any person on matters the officer believes may be relevant;
 - (i) question an employee, during the employee's regular hours of work or otherwise, without the employer's being present;
 - (j) require an employer, employee or other person to provide oral or written statements, whether under oath or otherwise, at a specified time, date and place.
- (3) An officer may, by a notice issued to an employer, require the employer to post and to keep posted in a conspicuous place

or places where it is likely to come to the attention of the employer's employees, at locations at the employer's place of business specified in the notice,

- (a) any notices, information bulletins or extracts from this Act or the regulations relating to the administration or enforcement of this Act or the regulations, or
- (b) a copy of a report or part of a report made by the officer concerning the results of an investigation or inspection.

(4) If a notice, information bulletin or extract referred to in subsection (3)(a) or a copy of a report or part of a report referred to in subsection (3)(b) posted at the employer's place of business is unlikely to come to the attention of employees at the employer's place of business, the officer may by notice to the employer require the employer to provide a copy to those employees.

(5) An officer who removes a record or thing under subsection (2)(e) must provide a receipt and return the record or thing to the person who provided it within a reasonable time.

(6) An officer may enter a private dwelling under subsection (2)(a) only with the consent of the occupant of the private dwelling or pursuant to an order under subsection (7).

(7) If the consent required under subsection (6) is refused or cannot reasonably be obtained, the officer may apply to a justice as defined in the *Provincial Offences Procedure Act* for an order directing the occupant to permit the officer to enter the private dwelling to exercise the officer's powers and perform the officer's duties and functions, and the justice may make the order accordingly.

50 Section 78 is repealed and the following is substituted:

Assistance to officers

78(1) Every employer and person acting on the employer's behalf and every employee must give whatever assistance is necessary to an officer to enable the officer to make an entry, inspection, investigation or inquiry.

(2) An employer, employee or other person, as the case may be, must comply with the requirements referred to in section 77(2)(c), (d) and (j).

(3) No employer, employee or other person shall

- (a) interfere with or in any manner hinder an officer, or attempt to interfere with or hinder an officer, in the exercise of a power or performance of a duty or function under this Act;
- (b) make a false statement or give false or misleading information to an officer in response to the exercise of a power or the performance of a duty or function under this Act.

(4) If a person interferes with or in any manner hinders an officer in the exercise of a power or performance of a duty or function under this Act, the Director may apply to the Court for an order restraining that person from interfering with or in any manner hindering the officer in the exercise of that power or the performance of that duty or function.

Officer directed audit

78.1(1) During the course of, or as a result of, an inspection, investigation or inquiry, an officer may, by written notice, require an employer to conduct an audit of compliance, or other examination,

- (a) of the employment records or any other records or thing, or
- (b) of any employer practices

to determine whether this Act, the regulations or an authorizing or enforcement instrument has been or is being complied with.

(2) If an employer is required to conduct an audit or examination under subsection (1), the employer must, in accordance with the notice and subject to the regulations, conduct the audit or examination and report the results to the officer in the form and manner acceptable to the officer.

(3) The notice must specify

- (a) the period to be covered by the audit or examination,
- (b) what is to be covered by the audit or examination and the manner in which the audit or examination is to be conducted,
- (c) the date by which the employer must provide a report of the results of the audit or examination to the officer, and
- (d) any other matter provided for in the regulations.

51 Section 79 is repealed and the following is substituted:**Directions**

79(1) An officer as a result of an inspection, investigation or inquiry under section 77 or an audit of compliance or other examination under section 78.1 may, in writing, direct an employer or employee to comply with this Act, the regulations or an authorizing or enforcement instrument.

(2) A direction may be made with or without conditions and may be revoked or amended at any time.

(3) A person to whom a direction is given must comply with the direction.

52 Section 82 is amended**(a) in subsection (1)**

(i) by striking out “written”;

(ii) by repealing clause (a) and substituting the following:

(a) an employer failed to pay earnings to an employee or to provide anything to which an employee is entitled under this Act;

(iii) in clause (b)

(A) by repealing subclause (i);

(B) by repealing subclauses (i.2) and (i.3) and substituting the following:

(i.2) contrary to section 52, 53.4, 53.91, 53.951, 53.961, 53.971 or 53.985;

(b) by repealing subsection (3) and substituting the following:

(3) A complaint must be made in the form and manner determined by the Director and must contain the required information, including the complainant’s contact information.

(3.1) The employee must notify the Director of any changes to the information provided under subsection (3) as soon as reasonable and practicable under the circumstances.

(c) by adding the following after subsection (4):

(5) No employee shall make a complaint to an officer knowing it to be untrue.

53 Section 85 is amended

(a) in subsection (1)

(i) in clause (a) by striking out “written”;

(ii) by striking out “the officer must serve the employee with notice of that decision” **and substituting** “the officer must, unless the complaint has been withdrawn by the complainant or deemed to have been withdrawn under subsection (1.1), serve the employee with notice of that decision”;

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

(1.1) The Director may deem a complaint to have been withdrawn if an employee refuses or fails to participate in an investigation and reasonable efforts have been made to contact the employee.

54 Section 86 is repealed and the following is substituted:

Complaints referred to Director

86 If an officer, after investigating a complaint of an employee, has reason to believe that

- (a)** the employment of the employee was suspended or terminated, or
- (b)** the employee was laid off

in the circumstances or for any of the reasons described in section 82(1)(b), the officer must, unless the matter has been settled, refer the complaint to the Director.

55 Section 87 is repealed and the following is substituted:

Order of an officer

87(1) If an officer determines that earnings are due to an employee, whether or not a complaint has been made, the officer must, unless the matter has been settled, make an order requiring the employer to pay to the employee, or to pay to the Director on behalf of the employee, earnings to which the

employee is entitled and specify the date by which the order must be complied with.

(2) If an officer is unable to determine the amount of earnings to which an employee is entitled for the purpose of making an order because the employer has not made or kept complete and accurate employment records, or has failed to make those records available to the officer for inspection, the officer may determine the amount in any manner that the officer considers appropriate.

(3) The employer or employee may appeal the order of the officer to an appeal body.

56 Section 89(2) is repealed and the following is substituted:

(2) If the Director determines that

- (a) the employment of an employee was suspended or terminated, or
- (b) the employee was laid off

in the circumstances or for any of the reasons described in section 82(1)(b), the Director must, unless the matter has been settled, make an order for reinstatement or compensation or both and specify the date by which the order must be complied with.

57 Section 90 is repealed and the following is substituted:

Limitation periods for orders

90(1) An order under this Division may direct the payment of wages, overtime pay, vacation pay and general holiday pay, as applicable, earned during the assessment periods.

(2) An order under this section may be made with respect to an employee who has not made a complaint only if, at the time that the officer informed the employer of the inspection, investigation or inquiry that resulted in the order, the employee was eligible to make a complaint under section 82(2).

(3) In this section,

- (a) “claim date” means the earlier of
 - (i) the date the complaint was made, and

- (ii) the date the officer informed the employer of the inspection, investigation or inquiry that resulted in the order;
- (b) “assessment period” means
 - (i) in the case of determining the payment of wages or overtime pay, or both, the period
 - (A) commencing 6 months before the earlier of
 - (I) the claim date, and
 - (II) the date the employee’s employment is terminated, if applicable,
 - and
 - (B) ending on a date before the date of the order, as determined appropriate by the officer;
 - (ii) in the case of determining the payment of vacation pay or general holiday pay, or both, the period
 - (A) commencing 2 years before the earlier of
 - (I) the claim date, and
 - (II) the date the employee’s employment is terminated, if applicable,
 - and
 - (B) ending on a date before the date of the order, as determined appropriate by the officer.
- (4) An order of the Director for compensation under section 89(3)(b) may direct payment for a period not exceeding 6 months from the date that the employment of the employee was suspended or terminated, that the employee was laid off or that the employer failed to reinstate the employee or to provide the employee with alternative work, in accordance with Part 2, Division 7, Division 7.1, Division 7.2, Division 7.3, Division 7.4, Division 7.5 or Division 7.6.

58 Section 91 is amended

- (a) in subsection (2) by striking out “Government” and substituting “Crown”;

(b) by adding the following after subsection (4):

(5) Subject to the right to appeal under section 95, an employer must comply with an order under this Division within 21 days of the date of service of the order on the employer.

59 Section 92 is repealed and the following is substituted:

Revocations or amendments by officer

92(1) An officer may revoke or amend an officer's order issued by the officer who made it at any time before the time for an appeal to the appeal body has expired.

(2) An officer may revoke or amend a single employer declaration issued by the officer who made it at any time before the time for an appeal to the appeal body has expired.

Revocations or amendments by Director

92.1(1) The Director may revoke or amend an officer's order or a Director's order at any time before the order is filed with the Court, but if the order has been appealed to the appeal body, at any time before the appeal body issues its decision.

(2) The Director may revoke or amend a director's certificate referred to in section 112 at any time before the certificate is filed with the Court, but if the certificate has been appealed to the appeal body, at any time before the appeal body issues its decision.

(3) The Director may revoke or amend a single employer declaration at any time, but if the declaration has been appealed to the appeal body, at any time before the appeal body issues its decision.

(4) The Director may revoke or amend a collection notice at any time before the time for an appeal to the appeal body has expired.

(5) The Director may revoke or amend a notice of administrative penalty at any time before the appeal body issues its decision.

60 Section 93 is repealed and the following is substituted:

Amendments and appeals from amendments

93(1) If an order under this Division, a single employer declaration or a collection notice is amended, a copy of the

amendment must be served on each person on whom the original order, declaration or notice was served.

(2) A person who receives a copy of an amendment may appeal to the appeal body, and the time for making the appeal starts from the date of service of the copy of the amendment.

61 The heading preceding section 95 is amended by striking out “Umpires” and substituting “the Appeal Body”.

62 Section 95 is repealed and the following is substituted:

Appeal to appeal body

95(1) A person who has a right of appeal to the appeal body may appeal by serving on the Registrar written notice of appeal specifying the reasons for the appeal and providing to the Registrar the fee, if any, and any amount referred to in subsection (3).

(2) A notice of appeal must be served on the Registrar within 21 days after the date of service on the appellant of a copy of, as the case may be,

- (a) a single employer declaration,
- (b) an order under Division 3,
- (c) a notice of administrative penalty,
- (d) a notification of a cancellation referred to in section 23.1(7),
- (e) a collection notice, or
- (f) a certificate under section 112(4)(b).

(3) The following must be received by the date referred to in subsection (2), in a form and manner acceptable to the Registrar:

- (a) any fee payable under the regulations;
- (b) any amount the employer is required to pay under an order under Division 3;
- (c) any amount the employer is required to pay under section 112(4)(b).

- (4) When the Registrar considers that there are extenuating circumstances that warrant doing so, the Registrar may
- (a) waive or reduce a fee or other amount required to be paid when the notice of appeal is served,
 - (b) extend the time to pay a fee or other amount referred to in clause (a), or
 - (c) accept security for the amount payable in another form and amount acceptable to the Registrar.

63 Section 96 is repealed and the following is substituted:

Appeal referred to appeal body

96(1) If a notice of appeal meets all the requirements for an appeal, the Registrar must

- (a) refer the appeal to the appeal body, and
 - (b) give to the appellant and to each party to the appeal, written notice of the date, time and place at which the appeal will be considered.
- (2) The Director is a party to every appeal to the appeal body and to every proceeding resulting from an order or resulting from a decision of the appeal body.

64 Section 100(3) and (4) are repealed and the following is substituted:

(3) For the purpose of hearing appeals under this Act, the members of the appeal body have the same power as is vested in the Court for the trial of civil actions

- (a) to summon and enforce the attendance of witnesses,
- (b) to compel witnesses to give evidence under oath or otherwise,
- (c) to compel witnesses to give evidence in person or otherwise, and
- (d) to compel witnesses to produce any record, object or thing that relates to the matter being heard.

65 Section 101 is repealed.

66 Section 104 is repealed and the following is substituted:**Form of decision**

104(1) An appeal body's decision must be in writing.

(2) The decision must indicate the place at which and the date on which it is made and must be signed by the appeal body.

(3) A copy of each decision must be provided to the Registrar, who must provide it to each party to the appeal.

(4) The Registrar must keep, as a public record, a copy of all decisions issued by an appeal body.

67 Section 105 is repealed and the following is substituted:**Settlement**

105(1) If the parties settle the matters in dispute themselves after an appeal has been referred to the appeal body, the appeal body may record the settlement in the form of a decision.

(2) This section does not apply to an administrative penalty.

68 Section 106(1) is amended by striking out “an award” wherever it occurs and substituting “a decision”.**69 Section 107(1) is amended**

(a) by striking out “an award” and substituting “a decision”;

(b) by adding the following after clause (d):

(e) providing a date by which the decision of the appeal body must be complied with.

70 The headings to Part 4 and Division 1 of Part 4 are repealed and the following is substituted:

Part 4
Orders and Decisions and
Director's Demands to Third Parties

Division 1
Enforcement of Orders
and Decisions

71 The following is added after the heading to Part 4:

Application of Part

108.1 This Part does not apply in respect of the failure to pay an administrative penalty under Part 4.1.

72 Section 110 is repealed and the following is substituted:**Filing of order****110** If

- (a) an order of an officer or of the Director is not complied with and the time for an appeal has expired, or
- (b) a decision of an appeal body is not complied with by the date specified under section 107(1)(e),

the Director may file the order or decision with the clerk of the Court, and the order or decision is then enforceable as an order or judgment of the Court.

73 Section 113(1) is amended by striking out “or umpires’ awards” and substituting “an appeal body’s decisions”.**74 Sections 114 and 115 are repealed and the following is substituted:****Definitions****114** In this Division,

- (a) “account” means a chequing, savings, demand or similar account at a bank, treasury branch, trust corporation, loan corporation, credit union or other deposit-taking financial institution in Alberta, but does not include an account or arrangement under which money is deposited for a fixed term whether or not the term may be abridged, extended or renewed;
- (b) “employer” includes a director or former director in respect of whom a certificate has been filed in the Court under section 112(6);
- (c) “joint debt or account” means a debt or account that is co-owned by an employer and one or more other persons as joint owners or joint and several owners.

Director’s demand to third party**115(1)** If the Director knows or has reason to believe that

- (a) an employer has failed or is likely to fail to pay

- (i) earnings to an employee, or
- (ii) an amount of compensation that the Director may order to be paid under section 89(3)(b) to or on behalf of an employee,

and

- (b) a third party is or is about to become indebted to the employer for a sum of money or is about to pay a sum of money to the employer,

the Director may, even though the Director has not determined the amount to which an employee is entitled, issue a demand and serve it on the third party.

(2) If the Director knows or has reason to believe that

- (a) an employer has failed to pay any fees and costs payable under this Act, and
- (b) a third party is or is about to become indebted to the employer for a sum of money or is about to pay a sum of money to the employer,

the Director may issue a demand and serve it on the third party.

(3) Demands referred to in subsection (1) and (2) may be combined into one demand if they both relate to the same employer.

(4) A Director's demand may direct the third party to remit to the Director the amount specified in the demand.

(5) A Director's demand with respect to a joint debt or account does not attach to the joint debt or account unless an order or decision relating to the amount owing has been filed in the Court.

75 The following is added after section 116:

Joint debt or account

116.1(1) On service of a Director's demand under section 116, the third party must, if the indebtedness is a joint debt or account,

- (a) inform the Director of the following:
 - (i) that the indebtedness is a joint debt or account;

- (ii) the names of and contact information for all persons who are co-owners of the joint debt or account,

and

- (b) pay the Director the amount of the indebtedness that is presumed under subsection (8) to be owned by the employer, or the amount specified in the demand, whichever is less.

(2) On receipt of the information referred to in subsection (1)(a), the Director must give written notice of the demand to all persons identified under subsection (1)(a)(ii).

(3) If disclosure of a name or contact information of a person identified under subsection (1)(a)(ii) would be unlawful or a breach of a legal duty owed by the third party to that person, the third party must promptly

- (a) give written notice of the demand to that person, and
- (b) certify to the Director that the third party has done so.

(4) The Director, the employer or any other person identified under subsection (1)(a)(ii) may, within 21 days after receipt of the written notice under subsection (2) or (3), as applicable, apply to the Court for an order to determine either or both of the following:

- (a) that the share in the joint debt or account is other than that presumed under subsection (8);
- (b) that the employer or any other person identified under subsection (1)(a)(ii) is not a co-owner of the joint debt or account,

and the Court may determine any other matter and do any other thing that the Court considers necessary or appropriate.

(5) Notice of an application under subsection (4) must be served,

- (a) if the applicant is the employer or any other person identified under subsection (1)(a)(ii), on the third party, the Director and all other persons identified under subsection (1)(a)(ii), or
- (b) if the applicant is the Director, on the third party and all persons identified under subsection (1)(a)(ii).

(6) The onus is on the person who brings the application under subsection (4) to establish

- (a) that the share in the joint debt or account is other than that presumed under subsection (8), or
- (b) that the employer or other person identified under subsection (1)(a)(ii) is not a co-owner of the joint debt or account.

(7) A Director's demand that attaches a joint account only attaches the portion of the joint account that is in the joint account at the time the demand is received.

(8) For the purposes of this section, it is presumed that an equal portion of the joint debt or account is owned by each person identified under subsection (1)(a)(ii).

76 Section 118 is repealed and the following is substituted:

Debt created

118(1) A Director's demand constitutes a debt owed by the third party

- (a) in respect of a demand referred to in section 115(1), to the Director on behalf of the employees, and
- (b) in respect of a demand referred to in section 115(2), to the Crown.

(2) A debt referred to in subsection (1) arises

- (a) at the time the demand is received, if the third party is indebted to the employer at that time, or
- (b) when the third party becomes indebted to the employer, if the third party is not indebted to the employer when the demand is received and the demand has not been revoked.

(3) The Director may recover the amount specified in a Director's demand by civil action, and the third party may raise any defence to the action that could have been raised against the employer if the employer had sued the third party for recovery of the indebtedness.

(4) A debt arising under this section is discharged if

- (a) the third party pays to the Director the amount required to be paid in the Director's demand,
- (b) the employer pays to the employee or the Crown the amount owing under section 115(1) or (2), as the case may be, or
- (c) the Director's demand is revoked.

77 Section 119 is amended by striking out “does” and substituting “shall”.

78 The following is added after section 120:

Payment priorities

120.1 Money received in accordance with a Director's demand referred to in section 115(1), (2) or (3) or paid under section 121 or 123 must be paid, subject to the regulations, in the following order of priority:

- (a) first to the employees concerned;
- (b) second to the Crown;
- (c) the remaining balance, if any, to the employer.

79 Sections 121 to 123 are repealed and the following is substituted:

Payment of money received

121(1) When money is received in accordance with a Director's demand and an order or appeal body's decision has been filed in the Court, the Director may pay the money in accordance with the order or decision.

(2) In the case of a joint debt or account,

- (a) if no application is made in accordance with section 116.1(4), the Director may pay the money in accordance with the order or decision, or
- (b) if an application is made in accordance with section 116.1(4), the Director must hold the money pending disposition of the matter by the Court and pay the money in accordance with the order of the Court.

Director's collection notice

122(1) When money is received in accordance with a Director's demand and no order or appeal body's decision has been made, or if an order or decision has been made but has not been filed in the Court, the Director must as soon as possible serve the employer and employees concerned with a written collection notice stating

- (a) the date of receipt of the money,
 - (b) the amount received,
 - (c) the amount, as the case may be, of either or both of the following:
 - (i) the earnings claimed by the employees or amount of compensation claimed by the employees that the Director may order payable or, if an order or appeal body's decision has been made, the amount of earnings or compensation that the employer is required to pay under the order or decision;
 - (ii) the fees and costs payable to the Crown,
- and
- (d) that, unless an appeal is made, the Director will, on expiration of the period for appeal, pay the lesser of
 - (i) the amount received under the Director's demand, and
 - (ii) the amount referred to in clause (c)

to the employees concerned and the Crown, as applicable, and any balance remaining to the employer.

(2) An employer or employee affected by the collection notice may appeal to the appeal body.

Disposition of money received

123(1) If a collection notice is not appealed to the appeal body, the Director may pay the money in accordance with the collection notice.

(2) If there is an appeal to the appeal body, the Director must hold the money pending disposition of the appeal by the appeal body and pay the money in accordance with the decision of the appeal body.

80 The following is added after Part 4:**Part 4.1
Administrative Penalties****Administrative penalties**

123.1(1) If the Director is of the opinion that an employer

- (a) has contravened or failed to comply with this Act or the regulations, or
- (b) has failed to comply with an authorizing or enforcement instrument,

the Director may, subject to the regulations, serve on the employer a notice of administrative penalty requiring the employer to pay to the Crown an administrative penalty in the amount set out in the notice for each contravention or failure to comply.

(2) A notice of administrative penalty may require the person to whom it is directed to pay either or both of the following:

- (a) a daily amount for each day or part of a day on which the contravention or failure to comply occurs or continues;
- (b) a one-time amount to address economic benefit where the Director is of the opinion that the person has derived an economic benefit directly or indirectly as a result of the contravention or failure to comply.

(3) An administrative penalty referred to in subsection (2)(a) may not exceed \$10 000 for each contravention or failure to comply or for each day or part of a day on which the contravention or failure to comply occurs or continues, as the case may be.

(4) An employer who pays an administrative penalty in respect of a contravention or a failure to comply shall not be charged under this Act with an offence in respect of the same contravention or failure to comply that is described in the notice of administrative penalty.

(5) A notice of administrative penalty may be served within 2 years after the alleged contravention or non-compliance occurs, but not afterwards.

(6) Subject to the right to appeal, where an employer fails to pay an administrative penalty in accordance with the notice of administrative penalty and the regulations, the Director may file a copy of the notice of administrative penalty with the clerk of the Court, and the notice of administrative penalty is then enforceable as an order or judgment of the Court.

(7) An employer who is served with a notice of administrative penalty may appeal the administrative penalty to the appeal body.

(8) When an appeal from an administrative penalty is commenced, the commencement of that appeal operates to stay the administrative penalty until the appeal body renders its decision on the appeal or the appeal is withdrawn.

81 Section 125 is repealed and the following is substituted:

Adverse effect on employment prohibited

125 No employer and no other person may terminate or restrict the employment of or in any manner adversely affect an individual's employment or working conditions because the individual

- (a) has made or is about to make a complaint under this Act,
- (b) has given evidence or may give evidence in any proceeding or prosecution under this Act,
- (c) requests or demands anything to which the person is entitled under this Act, or
- (d) has provided or is about to provide any information to an officer.

82 Section 126 is repealed.

83 Section 128 is repealed and the following is substituted:

Employer prohibitions

128 No employer may

- (a) fail to pay earnings to an employee or to provide anything to which an employee is entitled under this Act;
- (b) require an employee to work hours in excess of the hours of work permitted under this Act.

84 Section 129 is repealed and the following is substituted:**Offences**

129 Any person who contravenes or fails to comply with this Act or the regulations or fails to comply with an authorizing or enforcement instrument is guilty of an offence.

85 Section 130 is repealed.

86 Section 131 is amended by striking out “offence is guilty of the offence, whether or not the corporation has been prosecuted or convicted” **and substituting** “commission of the offence is guilty of the offence, whether or not the corporation has been prosecuted for or convicted of the offence”.

87 Section 132 is amended

(a) **in subsection (1) by striking out** “An employer, employee, director, officer or other” **and substituting** “A”;

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

(2) In addition to any other penalty imposed under subsection (1), the judge who convicts the person may make an order requiring payment, within the time fixed by the judge, to the Director on behalf of each employee affected, of an amount not exceeding the sum that an officer, the Director or an appeal body could have ordered or decided.

88 Section 133 is repealed and the following is substituted:**Prosecutions**

133 A prosecution for an offence under this Act may be commenced within 2 years after the date on which the alleged offence occurred, but not afterwards.

89 Section 134 is repealed and the following is substituted:**Non-compellable witness**

134(1) In this section, “adjudicator” means the Court or any other court and includes the Labour Relations Board in matters relating to labour relations or any other board or person having by law or by the consent of the parties authority to hear, receive and examine evidence, but does not include a commissioner

making an inquiry under the *Public Inquiries Act* or an appeal body under this Act.

(2) The following are not compellable witnesses in a proceeding, other than a prosecution, before an adjudicator respecting any information, material or report obtained by the Minister or any other person under this Act:

- (a) the Minister;
- (b) a person employed or engaged in the administration of this Act;
- (c) any person designated by the Minister or the Director or selected by the parties to endeavour to effect settlement of any matter to which this Act applies.

90 Section 135 is repealed and the following is substituted:

Service of documents

135 If anything is required or permitted to be served under this Act it may, in addition to any other method provided by law, be served in accordance with the regulations.

91 The following is added after section 136:

Publication

136.1 Subject to the regulations, the Director must publish

- (a) any permits issued under this Act and the regulations,
- (b) any exemptions or variances issued under section 74 or 74.1, and
- (c) particulars of enforcement action taken under this Act or the regulations.

92 Section 137 is repealed and the following is substituted:

Group termination

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

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

93 Section 138 is amended

- (a) in subsection (1)
 - (i) by repealing clauses (a) and (b) and substituting the following:
 - (a) respecting the exemption of any employment, employer or category of employers from any or all of the provisions of Part 2, conditionally or unconditionally;
 - (a.1) respecting the exemption of any employee or category of employees from any or all of the provisions of Part 2, conditionally or unconditionally;

- (a.2) respecting the varying or substituting of any provision of Part 2 in respect of any employment, any employer or any employee or any category of employers or employees;
- (a.3) prescribing the period during which a regulation made pursuant to clause (a), (a.1) or (a.2) applies;
- (a.4) respecting terms and conditions that may be imposed with respect to an employment, employer or employee or category of employers or employees exempted pursuant to clause (a) or (a.1);
- (a.5) respecting terms and conditions that may be imposed with respect to the varying or substituting of any provision of Part 2 pursuant to clause (a.2) in respect of any employment, any employer or any employee or any category of employers or employees;
- (a.6) varying or substituting any provision of Part 2, Divisions 7 to 7.6 to reflect amendments made to the *Employment Insurance Act* (Canada) or the regulations under that Act that relate to an entitlement or any condition of entitlement under any of those Divisions;
- (b) designating a class or classes of persons for the purpose of the definition of “family member” in section 2.1(5), 53.9(1) or 53.98;
- (b.1) for the purpose of section 12(2), authorizing purposes for which money may be deducted from earnings and for the purpose of section 12(3), specifying other circumstances where deductions from earnings cannot be made;
- (b.2) respecting further records that must be kept up-to-date by an employer under section 14(1) or (4);
- (b.3) respecting hours of work averaging agreements including, without limitation, regulations
 - (i) respecting the manner in which overtime is to be calculated;
 - (ii) respecting work schedules;
 - (iii) respecting terms and conditions that must be included in an agreement;

- (iv) respecting scheduled daily and weekly hours of work;
 - (v) respecting the methods of providing copies of an agreement to, and otherwise informing employees, affected by the agreement;
 - (vi) the circumstances under which the Director may cancel an agreement and the process by which the cancellation is to take place;
- (b.4) prescribing other purposes for which a domestic violence leave may be taken under section 53.981(4);
- (b.5) specifying what constitutes “health of an employee” and “family responsibilities” for the purpose of section 53.982;

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

- (d.1) respecting information required to be included in a layoff notice in addition to the information specified in section 62(3)(a) to (c);
- (d.2) respecting variances or exemptions issued by the Director under section 74 or ordered by the Minister under section 74.1, including regulations
 - (i) respecting the process for applying for a variance or exemption,
 - (ii) with respect to a variance or exemption issued by the Director, specifying the provisions of this Act or the regulations in respect of which a variance or exemption may be issued, the extent to which they may be varied or exempted and the criteria required to be met for issuing a variance or exemption,
 - (iii) respecting information to be included in a variance or exemption, and
 - (iv) respecting the method of providing copies of an order or of the amendment or revocation of an order under section 74.1 to affected employers and employees;
- (d.3) respecting the circumstances under which a notice under section 137 is not required, respecting the information to be provided in a notice for the purpose

of section 137(2)(c) and respecting the method of giving affected employees a copy of the notice;

(iii) by repealing clause (e) and substituting the following:

- (e) respecting the employment of individuals under 18 years of age, including defining “artistic endeavours”, the form and content of a permit required under Division 9, any terms and conditions to be included in a permit and the form and manner of consultation referred to in section 65(2);

(iv) by repealing clauses (f) and (g) and substituting the following:

- (f) respecting the establishment of one or more minimum wages to be paid by employers to employees, respecting the wages to be paid for periods of employment of less than 3 consecutive hours and prohibiting or permitting deductions from the minimum wage;
- (f.1) respecting the qualifications for appointment as a member of an appeal body established under section 69(1)(a);
- (g) authorizing the appeal body to make a decision concerning the imposition of costs specified in the regulations, and specifying how those costs are to be recovered;
- (g.1) respecting payment priorities for the purpose of section 120.1;

(v) by adding the following after clause (i):

- (i.1) respecting administrative penalties, including regulations
 - (i) respecting notices of administrative penalty, their form and contents and the manner in which they are required to be given;
 - (ii) respecting any other matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent and purpose of the system of administrative penalties;

(vi) by adding the following after clause (k):

- (k.1) respecting the conducting of an audit of compliance or other examination referred to in section 78.1, including providing for any other matter to be included in a notice under section 78.1(3);

(vii) in clause (l) by striking out “section 2” and substituting “section 2.1”;

(viii) by adding the following after clause (l):

- (m) for the purposes of section 1(1)(p), authorizing members of other health professions to sign a medical certificate in respect of one or more provisions of this Act;
- (n) defining any term used but not defined in this Act, including terms required to be defined by the regulations;
- (o) respecting methods of service for the purpose of section 135 and when service by those methods is effected;
- (p) providing with respect to any provision of the regulations that its contravention constitutes an offence and prescribing penalties in respect of any such offence;
- (q) respecting, for the purposes of section 136.1, the publishing of permits, of exemptions and variances issued under section 74 and 74.1 and of the particulars of enforcement actions;
- (r) respecting any other matter the Lieutenant Governor in Council considers necessary to carry out the intent and purposes of this Act.

(b) by repealing subsection (3) and substituting the following:

(3) A regulation made under subsection (1)(a) to (a.5) and any action or decision taken under or in accordance with the regulations made under subsection (1)(a) to (a.5) apply despite anything in this Act to the contrary, except that no regulation overrides section 2 or 2.1.

94(1) In the following provisions “umpire” is struck out wherever it occurs and “appeal body” is substituted:

section 70;
section 80(3);
section 81;
section 88(6);
section 89(4);
section 98;
section 99;
section 100;
section 102;
section 103;
section 106(1);
section 107(1);
section 112(5);
section 136(a).

(2) In the following provisions “umpire’s” is struck out wherever it occurs and “appeal body’s” is substituted:

section 102(3) and (4);
section 107(2) and (3);
section 108(1);
section 111(1).

(3) In the following provisions “award” is struck out wherever it occurs and “decision” is substituted:

section 106(2);
section 107(2) and (3);
section 108(1);
section 111;
section 112(4)(a);
section 136(a) and (c).

Transitional Provisions

Existing collective agreements

95(1) In this section and sections 96 and 97,

- (a) “collective agreement” means a collective agreement that is in effect on the coming into force of this section;
- (b) “former Act” means the *Employment Standards Code* as it read before the coming into force of this section;
- (c) “amended Act” means the *Employment Standards Code* as amended by this Act;
- (d) “this Act” means the *Fair and Family-friendly Workplaces Act*.

(2) Part 2 of the former Act continues to apply with respect to a collective agreement that is in effect on the coming into force of this Act until a new collective agreement is entered into or until January 1, 2019, whichever occurs first.

Umpires

96 Persons appointed as umpires under section 69 of the former Act are deemed to be the appeal body for the purposes of the amended Act unless an appeal body is established or designated under section 69 of the *Employment Standards Code* as amended by section 46 of this Act.

Permits and schemes of employment

97 Subject to a regulation made under section 98,

- (a) any permit issued under the former Act that is in effect on the coming into force of this section expires on the expiry date set out in the permit or January 1, 2019, whichever occurs first, and
- (b) any scheme of employment approved under section 74 of the former Act that is in effect on the coming into force of this section expires on the expiry date set out in the approval or January 1, 2019, whichever occurs first.

Transitional regulations

98 The Lieutenant Governor in Council may make regulations providing for the transitional application of the amendments to the *Employment Standards Code* made by this Act.

Consequential Amendment

Amends SA 2015 c19

99(1) The *Enhanced Protection for Farm and Ranch Workers Act* is amended by this section.

(2) Part 1 is repealed.

Coming into Force

Coming into force of Part 1

100(1) This Part, except section 44, comes into force on January 1, 2018.

(2) Section 44 comes into force on Proclamation.

Part 2 Labour Relations Code

Amends RSA 2000 cL-1

101 The *Labour Relations Code* is amended by this Part.

103 Section 1 is amended**(b) in subsection (1)****(iii) in clause (I)**

(A) by adding “and includes a dependent contractor” after “wages”;

(B) by striking out “or” at the end of subclause (ii), by adding “or” at the end of subclause (iii) and by adding the following after subclause (iii):

- (iv) a person employed on a farm or ranch who is a family member of the farm or ranch employer as determined under subsections (2) and (3);

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

(2) For the purposes of subsection (1)(I)(iv), a person is employed on a farm or ranch when the person’s employment is directly related to

- (a) the primary production of eggs, milk, grain, seeds, fruit, vegetables, honey, livestock, diversified livestock animals within the meaning of the *Livestock Industry Diversification Act*, poultry or bees, or
- (b) any other primary agricultural operation specified in the regulations under the *Employment Standards Code*.

(3) For the purpose of subsection (1)(I)(iv),

- (a) “farm or ranch employer” means
- (i) a corporation engaged in a farming or ranching operation where all shareholders are family members of the same family,
- (ii) a sole proprietor engaged in a farming or ranching operation, and
- (iii) a partnership engaged in a farming or ranching operation where all partners are family members of the same family;
- (b) “family member”, in relation to a shareholder, sole proprietor or partner referred to in clause (a), means

- (i) the spouse or adult interdependent partner of the shareholder, sole proprietor or partner, or
- (ii) whether by blood, marriage or adoption or by virtue of an adult interdependent relationship, a child, parent, grandparent, sibling, aunt, uncle, niece, nephew or first cousin of the shareholder, sole proprietor or partner or of the shareholder's, sole proprietor's or partner's spouse or adult interdependent partner,

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

104 Section 4(2)(e) is repealed.

Repeal

144 Section 4 of the *Enhanced Protection for Farm and Ranch Workers Act* is repealed.

Coming into force of Part 2

145(1) Sections 113, 116, 118, 120 and 135 come into force on September 1, 2017.

(2) Sections 103(b)(iii) and (c), 104 and 144 come into force on January 1, 2018.

(3) Section 128 with respect to the enactment of section 95.2(2) of the *Labour Relations Code* is deemed to have come into force on the day the Bill to enact the *Fair and Family-friendly Workplaces Act* received first reading.



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