

## Apprenticeship and Industry Training Act, Part 5

**EFFECTIVE DATE: March 7, 2017**

### Purpose

To ensure consistent compliance and enforcement in accordance with the *Apprenticeship and Industry Training Act* (the Act) and its regulations.

### Introduction

AIT Officers conduct employer visits to monitor for compliance as legislated by the Act and any applicable regulations or orders, and to follow up on cancelled or rejected applications, employer or apprentice inquiries, and other matters within the scope of their legislated authority.

**Advanced Education will work with employers and individuals to ensure compliance with the Act and its regulations is achieved and maintained.**

Apprenticeship and Industry Training (AIT) uses both proactive and responsive approaches to establish compliance. In general, three approaches are available:

1. promotion of AIT programs and counselling and education for employers and/or apprentices on issues or concerns regarding compliance;
2. enforcement in accordance with the Act and its regulations through investigation of complaints, employer visits, inspections, compliance orders and court orders and;
3. prosecution, in appropriate circumstances, where an offender is prosecuted for an offence under provisions of the Act, or certain provisions of the Criminal Code of Canada.

### Instances of Non-compliance

Non-compliance includes, but is not limited to:

- for an employer
  - employing an individual to work in a trade when the employer knows or would reasonably be expected to know that the individual is not permitted to work in the trade under the Act – section 26 of the Act
  - denying access or otherwise impeding efforts of an officer to conduct an inspection – section 51(1) of the Act
  - failing to abide by terms and conditions of an authorization – section 23(5) of the Act
  - failing to abide by the regulations made under s. 22.1 of the Act (exceptions in a compulsory certification trade) when employing a person – Section 22.1(3) of the Act

- employing apprentices when the employer is not eligible to employ apprentices in that trade – section 6 and 7 of the Apprenticeship Program Regulation (AR 258/2000)
  - paying wages to an apprentice at a rate less than is permitted by the applicable trade regulation – section 13 of the Apprenticeship Program Regulation (AR 258/2000)
  - employing a greater number of apprentices than permitted by the applicable trade regulation – section 15 of the Apprenticeship Program Regulation (AR 258/2000)
  - failing to provide supervision and/or training to an apprentice – section 16 of the Apprenticeship Program Regulation (AR 258/2000)
  - failing to make the appropriate entries in the apprentice’s record book – section 17 of the Apprenticeship Program Regulation (AR 258/2000)
  - failing to uphold responsibilities when employing one or more apprentices in a designated trade with respect to each apprentice – section 12 of the Apprenticeship Program Regulation (AR258/2000)
- for an individual
    - providing information known, or that is reasonably be expected to be known, to be false – section 17 of the Act
    - working in a compulsory certification trade without the necessary qualifications – sections 21(3) and (4) of the Act
    - working in an optional certification trade without the necessary qualifications – Section 22(3) of the Act
    - where a person is carrying out or performing a task, activity or function in a compulsory certification trade pursuant to section 22.1, and that person does not work or perform in accordance with regulations made through exceptions in a compulsory certification trade – Section 22.1 (2) of the Act
    - Performing tasks, activities or functions not in accordance with an authorization if applicable – section 23(4) of the Act
    - claiming qualifications or apprenticeship in a trade that are not valid – Section 28 of the Act
    - using the term “certified” when not holding a designated trade certificate – Section 29 of the Act
    - claiming qualifications in an occupation that are not valid – Section 36(3) of the Act
    - impeding an officer in the carrying out of any duty that the officer is empowered to carry out – section 51(1) of the Act
    - failing to meet the contract requirements to become an apprentice under the Apprenticeship and Industry Training Administration Regulation – section 5 of the Apprenticeship Program Regulation (AR 258/2000)
    - failing to uphold responsibilities of an apprentice – section 18 of the Apprenticeship Program Regulation (AR 258/2000)

## Tools

The legislation provides tools to ensure that the apprenticeship program is administered within the parameters of industry recommendation.

Tools available to the Officer are divided into three areas:

## 1. Education

The Department has many methods to provide education, primarily through publications, presentations, orientations, employer meetings and employer visits. Officers educate employers, workers, and apprentices on compliance related issues.

## 2. Compliance

### Immediate Verbal Agreement to Compliance

If during a shop registration visit an Officer discovers a non-compliance issue that can be remedied and compliance achieved immediately, the Officer may issue an immediate verbal compliance directive. If an immediate verbal compliance directive is given, the Officer will complete an inspection report and ensure that corrective action has been taken, and compliance has been achieved before leaving the work site.

If, in the opinion of the Officer, compliance has not been, or will not be achieved by the end of the inspection, the Officer will issue a written compliance order. Verbal directives to achieve compliance are not to be used in cases where there is severe non-compliance; if there is a history of similar non-compliance, or if the non-compliance issue appears to be systemic on the work site.

### Compliance Order

When non-compliance is observed, and the breach falls outside of immediate verbal compliance, the Officer will issue a written compliance order noting the contravention(s) and requiring compliance by a specific date. Under section 52 of the Act, an Officer is authorized to issue a compliance order to any person who is contravening the Act. The compliance order will direct that person to comply with the Act within a specific time frame and in accordance with specific directions. If that person refuses or fails to comply with the terms specified in the compliance order, the Officer will apply to the court for an order requiring the person to comply with the Act.

## 3. Investigation and Prosecution

In addition to compliance orders, certain activities (section 54 of the Act) may be violations of the Act, regulations, and specific sections of the Criminal Code of Canada and could result in regulatory or criminal prosecutions.

Once a prosecution has commenced, Alberta Justice retains sole discretion in the handling and conduct of the prosecution in accordance with its guidelines.

## Convictions

**Convictions relating to non-compliance with the Act will be published on [www.tradesecrets.ca](http://www.tradesecrets.ca) in accordance with investigative communications procedures (link to be added when available).**