

BILL

No. 183

An Act to amend *The Saskatchewan Employment Act* and *The Saskatchewan Employment Amendment Act, 2014*

(Assented to _____)

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

PART I

Short title

Short title

1 This Act may be cited as *The Saskatchewan Employment (Essential Services) Amendment Act, 2015*.

PART II

Amendments to *The Saskatchewan Employment Act*

S.S. 2013, c.S-15.1 amended

2 *The Saskatchewan Employment Act* is amended in the manner set forth in this Part.

New Division 7 of Part III

3 Division 7 of Part III is repealed and the following substituted:

“DIVISION 7

Workplace Hazardous Materials Information System

“Interpretation of Division

3-47 In this Division:

- (a) **‘appeal board’** means an appeal board appointed pursuant to subsection 43(1) of the *Hazardous Materials Information Review Act* (Canada) in relation to appeals relating to the provisions of the *Hazardous Products Act* (Canada);
- (b) **‘concentration’** means concentration as expressed in the prescribed manner;

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- (c) **‘hazardous product’** means any product, mixture, material or substance that is classified in accordance with the regulations made pursuant to subsection 15(1) of the *Hazardous Products Act* (Canada) in a category or subcategory of a hazard class listed in Schedule 2 of that Act;
- (d) **‘label’** means a group of written, printed or graphic information elements that relate to a hazardous product, which group is designed to be affixed to, printed on or attached to the hazardous product or the container in which the hazardous product is packaged;
- (e) **‘pictogram’** means a graphical composition that includes a symbol along with other graphical elements, such as a border or background colour;
- (f) **‘pure substance’** means a substance that is composed mainly of a single biological or chemical ingredient;
- (g) **‘safety data sheet’** means a safety data sheet as defined in the regulations;
- (h) **‘supplier’** means a supplier as defined in the *Hazardous Products Act* (Canada).

“Employer’s duties re substances and hazardous products

3-48 Without restricting the generality of section 3-8 or limiting the duties of an employer pursuant to this Part and the regulations made pursuant to this Part, but subject to any prescribed exemptions, every employer shall, with respect to every place of employment controlled by that employer:

- (a) ensure that concentrations of biological substances and chemical substances in the place of employment are controlled in accordance with prescribed standards;
- (b) ensure that all biological substances and chemical substances in the place of employment are stored, handled and disposed of in the prescribed manner;
- (c) ensure that all biological substances and chemical substances in the place of employment, other than hazardous products, are identified in the prescribed manner;
- (d) subject to section 3-50, ensure that each hazardous product in the place of employment or each container in the place of employment in which a hazardous product is contained:
- (i) has a label that discloses all applicable prescribed information applied to it; and
 - (ii) has all applicable prescribed pictograms displayed on it in the prescribed manner; and
- (e) subject to section 3-50, make available to the employer’s workers, to the prescribed extent and in the prescribed manner, a safety data sheet with respect to each hazardous product in the place of employment that discloses:
- (i) if the hazardous product is a pure substance, the biological or chemical identity of the hazardous product and, if the hazardous product is not a pure substance, the biological or chemical identity of any ingredient of it that is a hazardous product and the concentration of that ingredient;

- (ii) the biological or chemical identity of any ingredient of the hazardous product that the employer has reasonable grounds to believe may be harmful to a worker and the concentration of that ingredient;
- (iii) the biological or chemical identity of any ingredient of the hazardous product of which the toxicological properties are not known to the employer and the concentration of that ingredient; and
- (iv) any prescribed information with respect to the hazardous product.

“Information re hazardous product

3-49 As soon as is practicable in the circumstances, an employer shall provide, with respect to any hazardous product in a place of employment controlled by the employer, any information mentioned in clause 3-48(e) that is in the possession of the employer to any physician or registered nurse who requests that information for the purpose of making a medical diagnosis of, or rendering medical treatment to, a worker in an emergency.

“Exemption from disclosure

3-50(1) In accordance with subsections (2) and (3), an employer who is required, pursuant to the regulations, to disclose any of the following information on a label or safety data sheet may, if the employer considers that information to be confidential business information, claim an exemption from the requirement to disclose that information:

- (a) in the case of a material or substance that is a hazardous product:
 - (i) the chemical name of the material or substance;
 - (ii) the number assigned to a chemical substance by the Chemical Abstracts Service Division of the American Chemical Society, or any other unique identifier, of the material or substance; and
 - (iii) the chemical name of any impurity, solvent or stabilizing additive that:
 - (A) is present in the material or substance;
 - (B) is classified in a category or subcategory of a health hazard class pursuant to the *Hazardous Products Act* (Canada); and
 - (C) contributes to the classification of the material or substance in the health hazard class pursuant to that Act;
- (b) in the case of an ingredient that is in a mixture that is a hazardous product:
 - (i) the chemical name of the ingredient;
 - (ii) the identification number assigned to a chemical substance by the Chemical Abstracts Service Division of the American Chemical Society, or any other unique identifier, of the ingredient; and
 - (iii) the concentration or concentration range of the ingredient;
- (c) in the case of a material, substance or mixture that is a hazardous product, the name of any toxicological study that identifies the material or substance or any ingredient in the mixture;

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- (d) the product identifier of a hazardous product, being its chemical name, common name, generic name, trade name or brand name;
 - (e) information about a hazardous product, other than the product identifier, that constitutes a means of identification; and
 - (f) information that could be used to identify a supplier of a hazardous product.
- (2) Subject to section 3-49, an employer described in subsection (1) may, if the employer considers that information to be confidential business information, claim an exemption from the requirement to disclose that information in the same manner and subject to the same terms and conditions as if the employer were an employer to whom the *Canada Labour Code* applies.
- (3) A claim for an exemption pursuant to subsection (2) may, in the discretion of the Minister of Health for Canada, be heard and determined by an occupational health officer or employee of that Minister in the same manner and subject to the same terms and conditions as if the employer were an employer to whom the *Canada Labour Code* applies.
- (4) An appeal by a claimant or any affected party of a decision pursuant to subsection (3) may, in the discretion of the Minister of Health for Canada, be heard and determined by an appeal board in the same manner and subject to the same terms and conditions as if the employer were an employer to whom the *Canada Labour Code* applies.
- (5) The director of occupational health and safety may publish in *The Saskatchewan Gazette* any notice respecting a claim for exemption or an appeal that would be required pursuant to the *Hazardous Materials Information Review Act* (Canada) to be published in the *Canada Gazette* as if the employer were an employer to whom the *Canada Labour Code* applies.

“Information confidential

- 3-51(1)** Subject to subsections (2) and (3), no employee of the ministry and no other person who assists in the administration of this Part shall, during his or her employment or after the termination of his or her appointment or services, reveal any manufacturing or trade secrets that may come to the knowledge of the employee or other person in the course of his or her duties, except for the purposes of this Part and the regulations made pursuant to this Part or as required by law.
- (2) For the purposes of subsection (3), **‘confidential information’** means:
- (a) information that, before the determination of a claim pursuant to section 16 of the *Hazardous Materials Information Review Act* (Canada), is claimed to be confidential business information:
 - (i) pursuant to section 3-50, by an employer manufacturing or using a hazardous product; or
 - (ii) pursuant to the *Hazardous Materials Information Review Act* (Canada), by a supplier as defined in the *Hazardous Products Act* (Canada); or

(b) information with respect to which, pursuant to section 16 of the *Hazardous Materials Information Review Act* (Canada):

(i) a claim or portion of a claim for exemption pursuant to section 11 of the *Hazardous Materials Information Review Act* (Canada) has been determined to be valid; and

(ii) compliance with the provisions of the *Hazardous Products Act* (Canada) or the *Canada Labour Code* has not been ordered.

(3) Confidential information is privileged and, notwithstanding any other Act or law, shall not be disclosed to any other person unless the specific disclosure has been expressly authorized by an order or decision issued pursuant to the *Hazardous Materials Information Review Act* (Canada) or the appeal board, if:

(a) for the purposes of the administration or enforcement of this Part, the information:

(i) is communicated to the Government of Saskatchewan or any agent or employee of the Government of Saskatchewan pursuant to an order or decision issued pursuant to the *Hazardous Materials Information Review Act* (Canada); or

(ii) is obtained by the Government of Saskatchewan or an agent or employee of the Government of Saskatchewan pursuant to an order or decision issued pursuant to the *Hazardous Materials Information Review Act* (Canada) or an order or decision of the appeal board through the inspection of or access to any book, record, writing or other document, of the Minister of Health for Canada or appeal board; or

(b) the information is obtained by any person for the purposes of or through the administration or enforcement of this Part, the *Hazardous Products Act* (Canada) or the *Hazardous Materials Information Review Act* (Canada)".

Section 3-83 amended

4 The following clauses are added after clause 3-83(1)(h):

“(h.1) for the purposes of clause 3-47(g), defining data safety sheet;

“(h.2) for the purposes of section 3-48, prescribing exemptions;

“(h.3) for the purposes of clause 3-48(a), prescribing standards;

“(h.4) for the purposes of clause 3-48(b), prescribing the manner in which biological substances and chemical substances must be stored, handled and disposed of;

“(h.5) for the purposes of clause 3-48(c), prescribing the manner in which biological substances and chemical substances must be identified;

“(h.6) for the purposes of clause 3-48(d), prescribing information that must be applied and prescribing pictograms and prescribing the manner in which pictograms must be displayed;

“(h.7) for the purposes of clause 3-48(e), prescribing the extent to which and the manner in which safety data sheets are made available and other information respecting a hazardous product that is to be disclosed in a safety data sheet”.

New section 6-33**5 Section 6-33 is repealed and the following substituted:****“Notice of impasse and mediation or conciliation required before strike or lockout**

6-33(1) If, in the opinion of an employer or a union, collective bargaining to conclude a collective agreement has reached a point where agreement cannot be achieved, the employer or union shall serve a written notice on the minister and the other party that an impasse has been reached.

(2) The written notice mentioned in subsection (1) must set out the essential services, if any, that, in the opinion of the party providing the notice, must be maintained in the event of a strike or lockout.

(3) Within three days after receiving the notice mentioned in subsection (1), the other party that received the written notice shall serve a written notice on the minister and the other party setting out the essential services that, in that party's opinion, must be maintained in the event of a strike or lockout.

(4) As soon as possible after receipt of a written notice pursuant to subsection (1), the minister shall appoint a labour relations officer or a special mediator, or establish a conciliation board, to mediate or conciliate the dispute.

(5) Subject to subsection (6), the labour relations officer, special mediator or conciliation board shall give a report, recommendation or decision to the minister and the parties within 60 days after the date of his, her or its appointment.

(6) The parties may agree to extend the time set pursuant to subsection (5) for giving a report, recommendation or decision.

(7) No strike is to be commenced and no lockout is to be declared:

(a) unless a labour relations officer or special mediator is appointed or a conciliation board is established pursuant to subsection (4);

(b) unless:

(i) the labour relations officer, special mediator or conciliation board has informed the minister and the parties that the labour relations officer, special mediator or conciliation board does not intend to recommend terms of settlement; or

(ii) the labour relations officer, special mediator or conciliation board has informed the minister that the parties have not accepted the recommended terms of settlement by the date set by the labour relations officer, special mediator or conciliation board;

(c) unless the labour relations officer, special mediator or conciliation board has informed the minister and the parties in a report that the dispute has not been settled; and

(d) until:

(i) in the case where no essential services are identified by the parties or there is an essential services agreement in effect between the parties, the expiry of 14 days after the date on which the labour relations officer, special mediator or conciliation board has informed the minister pursuant to clause (c); or

(ii) in the case where essential services are identified by either party and there is no essential services agreement in effect between the parties, the expiry of seven days after the date on which the labour relations officer, special mediator or conciliation board has informed the minister pursuant to clause (c).

(8) If it appears to the labour relations officer, special mediator or conciliation board that settlement of the dispute is unlikely before a strike or lockout, the labour relations officer, special mediator or conciliation board shall discuss with the union and the employer whether it is necessary to establish a shutdown protocol that preserves the plant, equipment and any perishable items.

(9) In this section, **'essential services agreement'** means an essential services agreement as defined in Part VII".

Section 6-98 amended

6 Subsection 6-98(2) is amended by striking out "Investigating officers" and substituting "Subject to the regulations, investigating officers".

PART III

Amendments to The Saskatchewan Employment Amendment Act, 2014

S.S. 2014, c.27, new section 8

7 Section 8 of *The Saskatchewan Employment Amendment Act, 2014* is repealed and the following substituted:

"New Part VII

8 Part VII is repealed and the following substituted:

"PART VII

Essential Services

"DIVISION 1

Preliminary Matters for Part

"Interpretation of Part

7-1(1) In this Part:

- (a) **'collective bargaining'** means collective bargaining as defined in Part VI and includes collective bargaining with a view to concluding an essential services agreement;
- (b) **'employee'** means an employee, as defined in Part VI, who is an employee of a public employer and who is represented by a union;
- (c) **'essential services agreement'** means an agreement concluded pursuant to section 7-3 and includes an agreement mentioned in subsection (2);
- (d) **'essential services employee'** means an employee who is described in section 7-23;
- (e) **'last collective agreement'** means the collective agreement last in effect between a public employer and a union before a work stoppage;

- (f) **‘public employer’** means:
 - (i) an employer that:
 - (A) is defined in Part VI; and
 - (B) provides an essential service to the public; or
 - (ii) any employer, person, agency or body, or class of employers, persons, agencies or bodies, that:
 - (A) is prescribed; and
 - (B) provides an essential service to the public;
 - (g) **‘tribunal’** means an essential services tribunal established pursuant to section 7-7 or 7-14;
 - (h) **‘union’** means a union, as defined in Part VI, that represents employees of a public employer;
 - (i) **‘work schedule’** means a work schedule or modified work schedule provided by a public employer to a union in accordance with this Part;
 - (j) **‘work stoppage’** means a lockout or strike as defined in Part VI.
- (2) Every agreement respecting essential services that is in effect on the day on which this Part comes into force:
- (a) remains in effect; and
 - (b) may be dealt with pursuant to this Part as if it were concluded pursuant to this Part.

“Application of Part

- 7-2(1)** This Part applies to every public employer, every union and every employee.
- (2) This Part prevails if there is any conflict between this Part and:
- (a) any other Part of this Act;
 - (b) any other Act, regulation or law; or
 - (c) any arbitral or other award or decision.

“DIVISION 2

Essential Services Agreements

“Negotiation of essential services agreement

- 7-3(1)** If a public employer and union have not concluded an essential services agreement and the minister and the parties have received a report from a labour relations officer, special mediator or conciliation board pursuant to clause 6-33(7)(c) that a dispute between the parties has not been settled, the public employer and the union shall engage in collective bargaining with a view to concluding an essential services agreement as soon as is reasonably possible after receiving that report.
- (2) Nothing in this section is to be interpreted as preventing a public employer and union from concluding an essential services agreement at any time.

“Contents of essential services agreement

7-4(1) An essential services agreement must consist of at least the following:

- (a) provisions that identify the essential services that are to be maintained during a work stoppage;
- (b) provisions that set out the classifications of employees who must work during a work stoppage to maintain essential services;
- (c) provisions that set out the number of positions in each classification mentioned in clause (b) who must work during a work stoppage to maintain essential services;
- (d) provisions that set out the manner of determining the locations or number of locations where the positions mentioned in clause (b) are required to work;
- (e) provisions that set out the manner of identifying and informing the employees who must work during a work stoppage;
- (f) provisions that set out the procedures that must be followed to respond to an unanticipated increase or decrease in the need for essential services during a work stoppage;
- (g) provisions that set out the procedures that must be followed to respond to an emergency during a work stoppage;
- (h) provisions that set out the procedures that must be followed to resolve disputes respecting changes to the agreement;
- (i) any other prescribed provisions.

(2) For the purposes of clause (1)(c), the number of positions is to be determined having regard to the availability of other qualified persons who are in the employ of the public employer and who are not members of the bargaining unit.

“Prohibition on work stoppage without essential services agreements, etc.

7-5 Notwithstanding Part VI, no public employer shall engage in a lockout and no union shall engage in a strike unless there is:

- (a) an essential services agreement between the parties; or
- (b) a decision of a tribunal pursuant to section 7-8 or 7-10.

“DIVISION 3

No Essential Services Agreement

“Notice of impasse

7-6(1) If, in the opinion of a public employer or a union, collective bargaining to conclude an essential services agreement has reached a point where agreement cannot be achieved, the public employer or union shall serve a written notice that an impasse has been reached on:

- (a) the chairperson of the board;
- (b) the minister; and
- (c) the other party.

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- (2) No written notice mentioned in subsection (1) must be served until the period mentioned in subclause 6-33(7)(d)(ii) has expired.
 - (3) The written notice mentioned in subsection (1) must contain the name of the person whom the party giving the notice appoints to the tribunal.
 - (4) Within three days after receiving the written notice mentioned in subsection (1), the other party shall serve on the first party, the chairperson of the board and the minister a written notice naming the person whom it appoints to the tribunal.

“Essential services tribunal

- 7-7(1)** On receipt of the parties’ appointments to the tribunal, the chairperson of the board shall appoint the chairperson or a vice-chairperson of the board as the chairperson of the tribunal.
- (2) No person is eligible to be appointed as a member of a tribunal or to act as a member of a tribunal if the person:
 - (a) has a pecuniary interest in a matter before the tribunal; or
 - (b) is acting or has, within a period of one year before the date on which the dispute is submitted to the tribunal, acted as lawyer or agent of any of the parties.
 - (3) The tribunal shall:
 - (a) hear:
 - (i) evidence presented relating to the dispute; and
 - (ii) argument by the parties or their lawyers or agents; and
 - (b) make a decision respecting the matters mentioned in subsection 7-8(3) that are the subject of the dispute.
 - (4) The decision of the majority of the members of a tribunal or, if there is no majority decision, the decision of the chairperson of the tribunal is the decision of the tribunal.
 - (5) In exercising its powers and fulfilling its responsibilities pursuant to this Part, a tribunal may exercise all or any of the powers mentioned in subsection 6-49(3), and that subsection applies, with any necessary modification, to the tribunal.
 - (6) The decision of the tribunal pursuant to this Division:
 - (a) is final and conclusive; and
 - (b) is binding on the parties.
 - (7) The public employer and the union shall bear their own costs of the tribunal and the remuneration and expenses of the member of the tribunal that it has appointed.

“Period within which tribunal must commence hearing and make a decision

- 7-8(1)** Within seven days after the appointment of the chairperson of the tribunal, the tribunal shall commence hearings.
- (2) A hearing of the tribunal must conclude within 60 days after the date on which the hearing commenced or any longer period that the tribunal considers necessary.

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- (3) Within 14 days after the conclusion of its hearing, the tribunal shall issue a decision on the following:
- (a) the essential services that must be maintained during the work stoppage;
 - (b) the classifications of employees who must work during the work stoppage to maintain essential services;
 - (c) the number of positions in each classification who must work during a work stoppage to maintain essential services;
 - (d) the locations or number of locations where work must be performed during the work stoppage;
 - (e) the procedures that must be followed to respond to an emergency during a work stoppage.
- (4) As soon as possible after issuing its decision, the tribunal shall cause a copy of the decision to be served on the public employer, the union and the minister.
- (5) In accordance with the decision of the tribunal pursuant to this section, the public employer shall provide the union with a work schedule that sets out the matters covered by the decision.
- (6) On receipt of a work schedule from the public employer pursuant to subsection (5), the union shall immediately:
- (a) identify the employees within each classification mentioned in the work schedule who must work during the work stoppage to maintain essential services;
 - (b) provide to each employee identified pursuant to clause (a) his or her work schedule;
 - (c) provide to each employee identified pursuant to clause (a) a list of the essential services that are to be performed; and
 - (d) provide to the public employer a list containing the name and the classification of each employee who is identified pursuant to clause (a), the essential services that are to be performed by each employee and the location where each employee will perform those essential services.
- (7) Subject to section 7-22, if the tribunal issues a decision pursuant to this section or section 7-10 determining that all employees of the public employer are employees who must work during a work stoppage:
- (a) the tribunal shall, in its decision, declare that any exercise of the right to strike or lock out would be substantially interfered with; and
 - (b) after the tribunal makes a declaration pursuant to clause (a):
 - (i) no public employer that is subject to the decision shall engage in a lockout and no union that is subject to the decision shall declare or authorize a strike; and
 - (ii) the minister shall give notice to the public employer and the union that all matters in dispute respecting the collective agreement must be resolved by mediation-arbitration in accordance with Division 4, and that Division applies, with any necessary modification, to resolving those matters in dispute.

“Public employer or union may apply for further decisions

7-9(1) If there is a change in circumstances after a decision pursuant to this Division has been issued, the public employer or the union may apply to the tribunal that made the decision for a decision to amend, rescind or rescind and replace the decision.

(2) A hearing of the tribunal pursuant to this section must commence within two days after an application is made and must conclude within 14 days after the date on which the hearing commenced or any longer period that the tribunal considers necessary.

(3) Subsections 7-7(3) to (7) apply, with any necessary modification, to an application pursuant to this section.

“Period within which further decision must be made

7-10 Within 14 days after the conclusion of its hearing pursuant to section 7-9, the tribunal shall issue a decision:

- (a) confirming the decision issued pursuant to this Division; or
- (b) amending, rescinding or rescinding and replacing the decision issued pursuant to this Division.

“Matters respecting further decision

7-11 As soon as possible after issuing a decision pursuant to section 7-10, the tribunal shall cause a copy of its decision to be served on the public employer, the union and the minister.

“Effect of decision

7-12(1) If the tribunal, pursuant to section 7-10, varies all or any of the following, the public employer shall modify the last work schedule provided pursuant to this Division to reflect those variations:

- (a) the identification of services as essential services that must be maintained during the work stoppage;
- (b) the classifications of employees who must work during the work stoppage to maintain essential services;
- (c) the number of positions in one or more classifications who must work during the work stoppage to maintain essential services;
- (d) the locations or number of locations where work must be performed during the work stoppage.

(2) The public employer shall provide the work schedule as modified pursuant to subsection (1) to the union.

(3) On receipt of a work schedule from the public employer pursuant to subsection (2), the union shall immediately:

- (a) identify the employees within each classification mentioned in the work schedule who must work during the work stoppage to maintain essential services;
- (b) provide to each employee identified pursuant to clause (a) his or her work schedule;

(c) provide to each employee identified pursuant to clause (a) a list of the essential services that are to be performed; and

(d) provide to the public employer a list containing the name and the classification of each employee who is identified pursuant to clause (a), the essential services that are to be performed by each employee and the location where each employee will perform those essential services.

“When decision is effective

7-13 A decision of the tribunal issued pursuant to this Division is effective 48 hours after the public employer and the union are served with the decision.

“DIVISION 4

If Lockout or Strike is Substantially Interfered With

“Procedures if lockout or strike is substantially interfered with

7-14(1) Subject to section 7-22, on the application of the public employer or the union, the tribunal that issued a decision pursuant to Division 3 may issue a decision determining whether or not the level of activity to be continued in compliance with the decision substantially interferes with the exercise of the right to strike or lock out.

(2) Subject to section 7-22, if the parties have an essential services agreement and either the public employer or the union is of the opinion that the level of activity to be continued in compliance with the essential services agreement substantially interferes with the exercise of the right to strike or lock out, that party shall serve a written notice stating that opinion on the other party, the minister and the chairperson of the board.

(3) The written notice mentioned in subsection (2) must contain the name of the person whom the party giving the notice appoints to the tribunal.

(4) Within three days after receiving the written notice mentioned in subsection (2), the other party receiving the notice shall serve on the first party, the chairperson of the board and the minister a written notice naming the person whom it appoints to the tribunal.

(5) Section 7-7 applies, with any necessary modification, to establishing a tribunal and to the tribunal that is established pursuant to this section.

(6) The tribunal shall:

(a) determine whether or not the level of activity to be continued in compliance with an essential services agreement, or a decision issued pursuant to Division 3, substantially interferes with the exercise of the right to strike or lock out; and

(b) cause a copy of its decision to be served on the public employer, the union and the minister.

(7) If the tribunal makes a declaration that the level of activity to be continued in compliance with an essential services agreement, or a decision issued pursuant to Division 3, substantially interferes with the exercise of the right to strike or lock out:

(a) no public employer or union that is subject to the decision shall fail, on being served with a copy of the decision, to immediately cease any work stoppage; and

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- (b) the minister shall give notice to the public employer and the union that all matters in dispute respecting the collective agreement that is the subject of the strike or lockout must be resolved by mediation-arbitration in accordance with this Division.
- (8) Within seven days after receipt of the notice mentioned in clause (7)(b) or subclause 7-8(7)(b)(ii), the public employer and the union shall each provide the minister with:
- (a) the name of the person that each intends to appoint to the mediation-arbitration board; or
 - (b) a written agreement in which the parties have agreed to submit the matters in dispute to a single mediator-arbitrator in accordance with sections 7-18 to 7-20.
- (9) Notwithstanding subsections (1) to (8) but subject to section 7-22, if the public employer and union agree that the level of activity to be continued in compliance with an essential services agreement or a decision issued pursuant to Division 3 substantially interferes with the exercise of the right to strike or lock out, the parties may agree to resolve all the matters in dispute by mediation-arbitration in accordance with this Division.
- (10) If the parties agree pursuant to subsection (9) to submit matters in dispute to mediation-arbitration, they shall each provide the minister with:
- (a) the name of the person that each intends to appoint to the mediation-arbitration board; or
 - (b) a written agreement in which the parties have agreed to submit the matters in dispute to a single mediator-arbitrator in accordance with sections 7-18 to 7-20.

“Mediation-arbitration to conclude a collective agreement—mediation-arbitration board

- 7-15(1)** If there is no written agreement mentioned in clause 7-14(8)(b) or (10)(b), within three days after the members of the mediation-arbitration board have been appointed by the parties, the two appointees shall appoint a third member of the mediation-arbitration board, who is to be the chairperson of the mediation-arbitration board.
- (2) If the two appointees named by the parties fail to agree on the appointment of a third member of the mediation-arbitration board within the three-day period mentioned in subsection (1), the minister, on the request of a party, shall appoint the third member.
- (3) The member of the mediation-arbitration board appointed pursuant to subsection (2) is the chairperson of the mediation-arbitration board.
- (4) No person is eligible to be appointed as a member of a mediation-arbitration board or shall act as a member of a mediation-arbitration board if the person:
- (a) has a pecuniary interest in a matter before the mediation-arbitration board; or
 - (b) is acting or has, within a period of one year before the date on which the dispute is submitted to mediation-arbitration, acted as lawyer or agent of any of the parties to the mediation-arbitration.

“Mediation by mediation-arbitration board

7-16(1) Within seven days after the date on which the last member of the mediation-arbitration board is appointed, the mediation-arbitration board shall commence to assist the parties in resolving the matters of the collective agreement in dispute.

(2) If a mediation-arbitration board determines that the parties are unable to resolve the matters of the collective agreement in dispute, the chairperson of the mediation-arbitration board shall provide notice to the public employer, union and the minister of a failure to resolve the matters.

“Arbitration by mediation-arbitration board

7-17(1) If notice has been provided pursuant to subsection 7-16(2), the public employer and the union shall, within three days after receiving the notice, each:

- (a) submit to the mediation-arbitration board a notice in writing setting out:
 - (i) a list of the matters agreed on by both parties; and
 - (ii) a list of the matters remaining in dispute; and
- (b) provide a copy of the written notice to the other party.

(2) Within three days after receiving a written notice pursuant to subsection (1), the other party shall provide its written response to the mediation-arbitration board and the party submitting the written notice.

(3) The mediation-arbitration board shall commence the arbitration when:

- (a) the mediation-arbitration board has received the written notices pursuant to subsection (1); and
- (b) either:
 - (i) the mediation-arbitration board has received the written responses pursuant to subsection (2); or
 - (ii) the three-day period mentioned in that subsection has expired.

(4) The mediation-arbitration board may engage the services of any person that it considers necessary to assist in the arbitration.

(5) The mediation-arbitration board shall determine the procedures to be followed, while ensuring that the public employer and the union are given full opportunity to:

- (a) present evidence related to the dispute;
- (b) make submissions; and
- (c) be represented by a lawyer or agent.

(6) A mediation-arbitration board may exercise all or any of the powers mentioned in subsection 6-49(3), and that subsection applies, with any necessary modification, to the mediation-arbitration board.

- (7) If the public employer and the union have settled all matters set out in the notices and responses received by the mediation-arbitration board pursuant to this section and entered into a new collective agreement, the mediation-arbitration board, on being so notified in writing by both the public employer and the union, shall:
- (a) discontinue the mediation-arbitration; and
 - (b) notify the minister of the agreement.
- (8) The mediation-arbitration is terminated when the mediation-arbitration board notifies the minister pursuant to subsection (7) of the new collective agreement entered into by the public employer and the union.
- (9) If the public employer and the union agree on some of the matters set out in the notices and responses received by the mediation-arbitration board pursuant to this section and the mediation-arbitration board is notified in writing by both the public employer and the union of the matters agreed on, the mediation-arbitration board shall confine the award to:
- (a) the matters set out in the notices and responses that are not agreed on; and
 - (b) any other matters that appear to the mediation-arbitration board to be necessary to be decided in order to make an award.
- (10) With respect to the matters set out in the notices and responses received by the mediation-arbitration board pursuant to this section on which the public employer and the union have not agreed, the mediation-arbitration board shall make an award in writing within:
- (a) 60 days after the date on which the third member of the mediation-arbitration board was appointed pursuant to section 7-15; or
 - (b) any longer period that the mediation-arbitration board considers necessary.
- (11) The decision of the majority of the members of the mediation-arbitration board or, if there is no majority decision, the decision of the chairperson of the mediation-arbitration board is the award of the mediation-arbitration board.
- (12) The award of the mediation-arbitration board pursuant to this section:
- (a) is final and conclusive; and
 - (b) is binding on the parties.
- (13) The public employer and the union shall:
- (a) bear their own costs of the mediation-arbitration;
 - (b) pay the remuneration and expenses of the member of the mediation-arbitration board that it has appointed; and
 - (c) pay an equal share of the remuneration and expenses of a person appointed pursuant to subsection 7-15(1) or (2) as the third member of the mediation-arbitration board.
- (14) When the mediation-arbitration board has made an award pursuant to this section, it shall cause a copy of the award to be served on the public employer, the union and the minister.

(15) When the mediation-arbitration board has made an award pursuant to this section, the public employer and the union shall immediately conclude a new collective agreement incorporating any provisions, terms and conditions that may be necessary to give full effect to the mediation-arbitration board's award.

“Mediation-arbitration to conclude a collective agreement—single mediator-arbitrator

7-18(1) If the public employer and union have entered into a written agreement pursuant to clause 7-14(8)(b) or (10)(b) to submit the matters in dispute to a single mediator-arbitrator, they shall provide a copy of the written agreement to the minister that includes the name of the person to act as mediator-arbitrator within seven days after entering into the agreement.

(2) No person is eligible to be appointed as a single mediator-arbitrator or shall act as a single mediator-arbitrator if the person:

- (a) has a pecuniary interest in a matter before the mediator-arbitrator; or
- (b) is acting or has, within a period of one year before the date on which the dispute is submitted to mediation-arbitration, acted as lawyer or agent of any of the parties to the mediation-arbitration.

“Mediation by single mediator-arbitrator

7-19(1) Within seven days after the date on which the minister receives a copy of the written agreement pursuant to section 7-18, the single mediator-arbitrator shall commence to assist the parties in resolving the matters of the collective agreement in dispute.

(2) If the single mediator-arbitrator determines that the parties are unable to resolve the matters of the collective agreement in dispute, the single mediator-arbitrator shall provide notice to the public employer, union and the minister of a failure to resolve the matters.

“Arbitration by single mediator-arbitrator

7-20(1) If notice has been provided pursuant to subsection 7-19(2), the public employer and the union shall, within three days after receiving the notice, each:

- (a) submit to the single mediator-arbitrator a notice in writing setting out:
 - (i) a list of the matters agreed on by both parties; and
 - (ii) a list of the matters remaining in dispute; and
- (b) provide a copy of the written notice to the other party.

(2) Within three days after receiving a written notice pursuant to subsection (1), the other party shall provide its written response to the single mediator-arbitrator and the party submitting the written notice.

(3) The single mediator-arbitrator shall commence the arbitration when:

- (a) the single mediator-arbitrator has received the written notices pursuant to subsection (1); and
- (b) either:
 - (i) the single mediator-arbitrator has received the written responses pursuant to subsection (2); or
 - (ii) the three-day period mentioned in that subsection has expired.

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- (4) The single mediator-arbitrator may engage the services of any person that the single mediator-arbitrator considers necessary to assist in the arbitration.
- (5) The single mediator-arbitrator shall determine the procedures to be followed, while ensuring that the public employer and the union are given full opportunity to:
- (a) present evidence relating to the dispute;
 - (b) make submissions; and
 - (c) be represented by a lawyer or agent.
- (6) A single mediator-arbitrator may exercise all or any of the powers mentioned in subsection 6-49(3), and that subsection applies, with any necessary modification, to the single mediator-arbitrator.
- (7) If the public employer and the union have settled all the matters set out in the notices and responses received by the single mediator-arbitrator pursuant to this section and entered into a new collective agreement, the single mediator-arbitrator, on being so notified in writing by both the public employer and the union, shall:
- (a) discontinue the mediation-arbitration; and
 - (b) notify the minister of the agreement.
- (8) The mediation-arbitration is terminated when the single mediator-arbitrator notifies the minister pursuant to subsection (7) of the new collective agreement entered into by the public employer and the union.
- (9) If the public employer and the union agree on some of the matters set out in the notices and responses received by the single mediator-arbitrator pursuant to this section and the single mediator-arbitrator is notified in writing by both the public employer and the union of the matters agreed on, the single mediator-arbitrator shall confine the award to:
- (a) the matters set out in the notices and responses that are not agreed on; and
 - (b) any other matters that appear to the single mediator-arbitrator to be necessary to be decided in order to make an award.
- (10) With respect to the matters set out in the notices and responses received by the single mediator-arbitrator pursuant to this section on which the public employer and the union have not agreed, the single mediator-arbitrator shall make an award in writing within:
- (a) 60 days after the date on which the single mediator-arbitrator was appointed; or
 - (b) any longer period that the single mediator-arbitrator considers necessary.
- (11) The award of the single mediator-arbitrator pursuant to this section:
- (a) is final and conclusive; and
 - (b) is binding on the parties.
- (12) The public employer and the union shall:
- (a) bear their own costs of the mediation-arbitration; and
 - (b) pay an equal share of the remuneration and expenses of the single mediator-arbitrator.

(13) When the single mediator-arbitrator has made an award pursuant to this section, the single mediator-arbitrator shall cause a copy of the award to be served on the public employer, the union and the minister.

(14) When the single mediator-arbitrator has made an award pursuant to this section, the public employer and the union shall immediately conclude a new collective agreement incorporating any provisions, terms and conditions that may be necessary to give full effect to the single mediator-arbitrator's award.

“Matters to be considered by mediation-arbitration board or single mediator-arbitrator

7-21 In making an award pursuant to this Division, a mediation-arbitration board or single mediator-arbitrator:

(a) shall consider, for the period with respect to which the collective agreement between the public employer and the union will be in force, the following:

(i) wages and benefits in private and public, and unionized and non-unionized, employment;

(ii) the continuity and stability of private and public employment, including:

(A) employment levels and incidence of layoffs;

(B) incidence of employment at less than normal working hours; and

(C) opportunity for employment;

(iii) the general economic conditions in Saskatchewan; and

(b) may consider, for the period with respect to which the collective agreement between the public employer and union will be in force, the following:

(i) the terms and conditions of employment in similar occupations outside the public employer's employment taking into account any geographic, industrial or other variations that the mediation-arbitration board or single mediator-arbitrator considers relevant;

(ii) the need to maintain appropriate relationships in terms and conditions of employment between different classification levels within an occupation and between occupations in the public employer's employment;

(iii) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered;

(iv) any other factor that the mediation-arbitration board or single mediator-arbitrator considers relevant to the matters in dispute.

“Multi-employer bargaining units

7-22(1) In this section:

‘multi-employer bargaining units’ means bargaining units established pursuant to Division 14 of Part VI;

‘substantial interference declaration or agreement’ means a declaration pursuant to section 7-8, 7-9 or 7-14 that a right to strike or lock out has been substantially interfered with or an agreement pursuant to subsection 7-14(9) to refer matters in dispute to mediation-arbitration.

(2) A substantial interference declaration or agreement respecting a dispute involving one or more bargaining units within multi-employer bargaining units must be made with respect to all bargaining units within the multi-employer bargaining units for which the union is engaged in collective bargaining.

(3) An application to the tribunal pursuant to section 7-14 with respect to a dispute involving one or more bargaining units within multi-employer bargaining units may be made by a person who is the bargaining agent for public employers in the multi-employer bargaining units.

(4) This Division applies, with any necessary modification, to multi-employer bargaining units.

“DIVISION 5

General Matters re Part

“Determination of essential services employees

7-23 Every employee who is required to work in accordance with an essential services agreement, or who is identified as an employee who must work during a work stoppage by his or her union in accordance with the provisions of this Part, is deemed to be an essential services employee during those times that the employee is scheduled to perform those essential services.

“Obligations of public employers

7-24 No public employer shall authorize, declare or cause a lockout of essential services employees.

“Obligations of unions

7-25(1) No union shall authorize, declare or cause a strike of essential services employees.

- (2) No union and no person acting on behalf of the union shall, in any manner:
- (a) discipline any essential services employee for the reason that the essential services employee complies with this Part; or
 - (b) direct, authorize or counsel another person to discipline any essential services employee for the reason that the essential services employee complies with this Part.

“No person or union to prevent compliance with this Part

7-26 No person or union shall in any manner impede or prevent or attempt to impede or prevent any essential services employee from complying with this Part.

“No person or union to aid, abet or counsel non-compliance with this Part

7-27 No person or union shall do or omit to do anything for the purpose of aiding, abetting or counselling any essential services employee not to comply with this Part.

“Unfair labour practices re Part

7-28(1) It is an unfair labour practice for a public employer or a union to fail or refuse to engage in collective bargaining with a view to concluding an essential services agreement.

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- (2) It is an unfair labour practice for a public employer to not take into consideration qualified persons who are in the employ of the public employer and who are not members of the bargaining unit when determining the number of positions in a classification who must work during the work stoppage to maintain essential services.
- (3) It is an unfair labour practice for a union to not identify qualified employees when identifying the employees who must work during the work stoppage to maintain essential services.
- (4) Part VI applies, with any necessary modification, to an unfair labour practice pursuant to this section.

“Essential services employees to continue or resume essential services

7-29(1) If there is a work stoppage:

- (a) every essential services employee shall, during those times that the essential services employee is scheduled to work, continue or resume the duties that are required in order to ensure that essential services are maintained during the work stoppage by that employee in accordance with the terms and conditions of the last collective agreement, if any;
- (b) the public employer shall, during those times that the essential services employee is scheduled to work, permit or authorize each of its essential services employees to continue or resume the duties that are required in order to ensure that essential services are maintained during the work stoppage by those employees in accordance with the terms and conditions of the last collective agreement, if any; and
- (c) every person who is authorized on behalf of the union to bargain collectively with the public employer shall give notice to the essential services employees that they must, during those times that the essential services employees are scheduled to work, continue or resume the duties that are required in order to ensure that essential services are maintained during the work stoppage by those employees in accordance with the terms and conditions of the last collective agreement, if any.
- (2) If there is a work stoppage, no essential services employee shall, without lawful excuse, fail, during those times that the essential services employee is scheduled to work, to continue or resume the duties that are required in order to ensure that essential services are maintained during the work stoppage by him or her.
- (3) Neither the public employer nor any person acting on behalf of the public employer shall, without lawful excuse, refuse to permit or authorize, or direct or authorize another person to refuse to permit or authorize, any essential services employee, during those times that the essential services employee is scheduled to work, to continue or resume the duties that are required in order to ensure that essential services are maintained during the work stoppage.

“Copies of essential services agreements to be filed with minister

7-30(1) Each of the parties to an essential services agreement shall file one copy of the agreement with the minister.

- (2) Section 6-44 applies, with any necessary modification, for the purposes of this section.

“Termination of essential services agreement

7-31(1) An essential services agreement continues until it is terminated in accordance with this section.

(2) A party to an essential services agreement may terminate the essential services agreement only if:

(a) the parties have a collective agreement; and

(b) there are at least 120 days left before the expiry of the collective agreement.

(3) A party may terminate an essential services agreement pursuant to subsection (2) by giving the other party written notice.

(4) Nothing in this section affects the obligation of a public employer and a union to engage in collective bargaining with a view to concluding an essential services agreement in accordance with section 7-3.

“Requirements for work schedules

7-32 Each work schedule must cover at least one week.

“The Arbitration Act, 1992 not to apply

7-33 *The Arbitration Act, 1992* does not apply to any arbitration pursuant to this Part.

“Change in membership of tribunal

7-34(1) A public employer or union that has appointed a member of a tribunal may, at any time, rescind the appointment and, if it rescinds an appointment, shall appoint a new member to the tribunal.

(2) A public employer or union that replaces its appointment shall serve written notice of the name of the new member on the other party, the chairperson of the board and the minister as soon as possible after it makes the new appointment.

“Offences and penalties re Part

7-35(1) No public employer, union, essential services employee or other person shall fail to comply with this Part, the regulations made pursuant to this Part or a decision or award of the board, a tribunal, a mediation-arbitration board or a single mediator-arbitrator made pursuant to this Part.

(2) Every public employer, union, essential services employee or other person who contravenes any provision of this Part, the regulations made pursuant to this Part or a decision or award of the board, a tribunal, a mediation-arbitration board or a single mediator-arbitrator made pursuant to this Part is guilty of an offence and liable on summary conviction:

(a) in the case of an offence committed by a public employer or a union or by a person acting on behalf of a public employer or a union, to a fine of not more than \$100,000 and, in the case of a continuing offence, to a further fine of \$10,000 for each day or part of a day during which the offence continues; and

(b) in the case of an offence committed by any person other than one described in clause (a), to a fine of not more than \$1,000 and, in the case of a continuing offence, to a further fine of \$400 for each day or part of a day during which the offence continues.

“Regulations for Part

7-36 The Lieutenant Governor in Council may make regulations:

- (a) prescribing any employer, person, agency or body, or class of employers, persons, agencies or bodies, for the purposes of paragraph 7-1(1)(f)(ii)(A);
- (b) for the purposes of clause 7-4(1)(i), prescribing other provisions that must be included in an essential services agreement, including prescribing the contents of those provisions;
- (c) prescribing any other matter or thing that is authorized or required by this Part to be prescribed in the regulations;
- (d) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Part”.

PART IV
Coming into Force

Coming into force

8 This Act comes into force on proclamation.

FOURTH SESSION

**Twenty-seventh
Legislature**

SASKATCHEWAN

B I L L

No. 183

*An Act to amend *The Saskatchewan Employment Act*
and *The Saskatchewan Employment Amendment
Act, 2014**

Received and read the

First time

Second time

Third time

And passed

Honourable Don Morgan
