

BILL

No. 139

An Act to amend *The Foreign Worker Recruitment and Immigration Services Act*

(Assented to _____)

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

Short title

1 This Act may be cited as *The Foreign Worker Recruitment and Immigration Services Amendment Act, 2018*.

SS 2013, c F-18.1 amended

2 *The Foreign Worker Recruitment and Immigration Services Act* is amended in the manner set forth in this Act.

Section 2 amended

3 **The following clause is added after clause 2(r):**

“(r.1) **‘registrar of appeals’** means an employee of the ministry who is designated by the minister to act as registrar of appeals for the purposes of this Act”.

Section 16 amended

4 **Clause 16(2)(e) is repealed and the following substituted:**

“(e) the applicant has failed to comply with *The Saskatchewan Employment Act* or any other prescribed Act”.

Section 20 amended

5 **Clause 20(1)(f) is repealed and the following substituted:**

“(f) the registered employer has failed to comply with *The Saskatchewan Employment Act* or any other prescribed Act”.

Section 34 repealed

6 **Section 34 is repealed.**

New section 35

7 **Section 35 is repealed and the following substituted:**

“Director’s responsibilities

35(1) In this section:

(a) **‘government institution’** means a government institution as defined in *The Freedom of Information and Protection of Privacy Act*;

(b) **‘personal information’** means personal information as defined in *The Freedom of Information and Protection of Privacy Act*.

(2) For the purposes of administering and enforcing this Act, the director may:

- (a) share any information collected and obtained pursuant to this Act, including personal information, with another government institution and receive information, including personal information, from another government institution; and
- (b) conduct joint inspections, examinations, audits and investigations with another government institution pursuant to Division 2”.

New section 39.1

8 The following section is added after section 39:

“Director may obtain information

39.1(1) The director may direct any person to provide the director with any information that the director is satisfied is reasonably required:

- (a) to determine compliance with this Act or the regulations made pursuant to this Act; or
- (b) to assist in the performance of the duties or the exercise of the powers of the director.

(2) The person to whom a direction is issued pursuant to subsection (1) shall provide that information in any form and manner and within any time that the director may specify in the direction”.

New section 47

9 Section 47 is repealed and the following substituted:

“Enforcement of compensation order

47 The director may enforce a certificate filed pursuant to section 46 with respect to an order that compensation be paid to any or both of the following as if the amount of compensation ordered to be paid were unpaid wages owing pursuant to *The Saskatchewan Employment Act*, and that Act applies, with any necessary modification, for the purposes of enforcing that order:

- (a) a foreign national;
- (b) any individual who paid a fee or expense or suffered any loss or damage on behalf of a foreign national”.

Section 48 amended

10 The following subsection is added after subsection 48(5):

“(6) Notwithstanding any other provision of this Act, if the director receives new information or representations with respect to any decision issued pursuant to subsection (3), the director may:

- (a) reconsider the matter; and
- (b) rescind, alter or amend that decision”.

New sections 49 to 49.5**11 Sections 49 and 50 are repealed and the following substituted:****“Adjudicators**

49(1) On the recommendation of the minister, the Lieutenant Governor in Council shall establish a list of adjudicators who are designated to hear appeals from a decision of the director issued pursuant to section 48.

(2) An adjudicator appointed pursuant to subsection (1):

(a) holds office at pleasure for a term not exceeding three years and until a successor is appointed; and

(b) may be reappointed.

(3) If the term of an adjudicator expires after the adjudicator has begun hearing a matter but before the hearing is completed, the adjudicator may continue with the hearing as if the term had not expired, and any order of the adjudicator is effective as though the adjudicator still held office.

(4) Adjudicators are to be paid:

(a) remuneration for their services at the rates approved by the Lieutenant Governor in Council; and

(b) reimbursement for their expenses incurred in the performance of their responsibilities at rates approved for members of the public service.

“Commencement of appeal to adjudicator

49.1(1) If a person who is directly affected by a director’s decision issued pursuant to section 48 intends to appeal the decision, that person must do so by filing an appeal with the registrar of appeals within 20 business days after service of the decision.

(2) The written notice of appeal filed pursuant to subsection (1) must:

(a) set out the grounds of the appeal; and

(b) set out the relief requested.

(3) On receipt of the notice of appeal pursuant to subsection (2), the registrar of appeals shall select an adjudicator from the list mentioned in section 49.

(4) In accordance with any regulations, after selecting an adjudicator pursuant to subsection (3), the registrar of appeals shall:

(a) in consultation with the adjudicator and the parties, set a time, date and place for the hearing of the appeal; and

(b) give notice of the time, date and place of the hearing to:

(i) the director; and

(ii) all parties to the appeal and any other persons who are directly affected by the director’s decision.

(5) The registrar of appeals shall give the adjudicator:

(a) a copy of the decision of the director;

(b) a copy of the written notice of intended action provided by the director, and any representations provided to the director, pursuant to section 48; and

(c) a copy of the notice of appeal.

“Procedures on appeal

49.2(1) Subject to the regulations, an adjudicator may determine the procedures by which the hearing of the appeal is to be conducted.

(2) An adjudicator is not bound by the rules of law concerning evidence and may accept any evidence that the adjudicator considers appropriate.

(3) An adjudicator may determine any question of fact that is necessary to the adjudicator’s jurisdiction.

(4) A technical irregularity does not invalidate a proceeding before or by an adjudicator.

(5) A foreign national who is or may be the subject of an appeal is not required to be a party to an appeal and hearing conducted pursuant to this section.

(6) Notwithstanding that a party is neither present nor represented at the hearing, if written notice of the hearing has been given to the party, the adjudicator may proceed with the hearing and issue any order as though that party were present.

“Powers of adjudicator

49.3 In conducting a hearing pursuant to this Part, an adjudicator has the following powers:

(a) to require any party to provide particulars before or during the hearing;

(b) to require any party to produce documents or things that may be relevant to a matter before the adjudicator and to so produce them before or during the hearing;

(c) to do all or any of the following to the same extent as those powers are vested in the Court of Queen’s Bench for the trial of civil actions:

(i) to summon and enforce the attendance of witnesses;

(ii) to compel witnesses to give evidence on oath or otherwise;

(iii) to compel witnesses to produce documents or things;

(d) to administer oaths and affirmations;

(e) to receive and accept any evidence and information on oath, affirmation, affidavit or otherwise that the adjudicator considers appropriate, whether admissible in a court of law or not;

(f) to conduct the hearing using a means of telecommunications that permits the parties and the adjudicator to communicate with each other simultaneously;

(g) to adjourn or postpone the hearing.

“Order of adjudicator

49.4 On completing the hearing of an appeal, the adjudicator shall:

- (a) issue an order doing one of the following:
 - (i) dismissing the appeal;
 - (ii) allowing the appeal;
 - (iii) varying the decision being appealed; and
- (b) provide the order and written reasons for the order to the registrar of appeals.

“Time for delivering decisions and service of decisions

49.5(1) The adjudicator shall issue the order and provide the written reasons required pursuant to clause 49.4(b) within 60 days after the date of the hearing of the appeal or the date the hearing is completed.

(2) Any party may apply to the Court of Queen’s Bench for an order directing the adjudicator to provide the adjudicator’s order and written reasons if the deadline in subsection (1) has not been met.

(3) A failure to comply with subsection (1) does not affect the validity of an order.

(4) As soon as is reasonably possible after receiving an order and written reasons, the registrar of appeals shall serve them on all parties”.

New sections 51 to 52.2

12 Sections 51 and 52 are repealed and the following substituted:

“Reconsideration

51 Notwithstanding any other provision of this Act, if an adjudicator receives new information or representations with respect to any order the adjudicator has made pursuant to section 49.4, the adjudicator may:

- (a) reconsider the matter; and
- (b) rescind, alter or amend the order.

“Appeal to court

52(1) A person who is directly affected by an order of an adjudicator may appeal it to a judge of the Court of Queen’s Bench.

(2) A person who is directly affected by an order of an adjudicator and who intends to appeal that order shall file the appeal within 20 business days after the date of service of the order.

(3) A notice of appeal is to be served on:

- (a) the director; and
- (b) any other party to the appeal.

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- (4) The record of an appeal pursuant to this section is to consist of:
- (a) any records or exhibits filed before the adjudicator;
 - (b) any order issued by the adjudicator;
 - (c) any written representations made to the adjudicator;
 - (d) any written decision of the adjudicator respecting the matter that is the subject of the appeal;
 - (e) the notice of appeal commencing the appeal; and
 - (f) any other material that the judge of the Court of Queen's Bench may require.
- (5) If an appeal is taken pursuant to this section, a judge of the Court of Queen's Bench may:
- (a) dismiss the appeal;
 - (b) allow the appeal;
 - (c) allow the appeal subject to terms and conditions;
 - (d) vary the order of the adjudicator;
 - (e) refer the matter back to the adjudicator for further consideration and decision; or
 - (f) make any other order that the judge considers appropriate.

“Right of director to appeal

52.1 The director has the right:

- (a) to appear and make representations:
 - (i) at any appeal being heard by an adjudicator; and
 - (ii) on any appeal of the adjudicator's order to the court pursuant to section 52; and
- (b) to appeal any order of a adjudicator.

“Power to enforce order

52.2(1) An order of an adjudicator or the Court of Queen's Bench pursuant to this Act may be enforced in the manner authorized by this Act.

(2) An order of an adjudicator may be filed in the office of a local registrar of the Court of Queen's Bench and enforced as a judgment of that court”.

Section 55 amended

13 Subsection 55(1) is amended:

(a) by adding the following clauses after clause (g):

“(g.1) for the purposes of section 49.1, prescribing any procedures for giving notice of a hearing;

“(g.2) for the purposes of section 49.2, prescribing procedures for hearing an appeal;

“(g.3) for the purposes of section 49.5, prescribing procedures for service of the adjudicator’s order and written reasons”; **and**

(b) by repealing clause (h).

Coming into force

14 This Act comes into force on assent.

THIRD SESSION

Twenty-eighth Legislature

SASKATCHEWAN

B I L L

No. 139

An Act to amend *The Foreign Worker Recruitment
and Immigration Services Act*

Received and read the

First time

Second time

Third time

And passed

Honourable Don Morgan
