

BILL

No. 5

An Act to amend *The Saskatchewan Employment Act*

(Assented to _____)

HIS 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 Saskatchewan Employment Amendment Act, 2024*.

SS 2013, c S-15.1 amended

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

Section 2-1 amended

3 Section 2-1 is amended:

(a) by repealing subclause (b)(i) and substituting the following:

“(i) for the purpose of Subdivisions 2 and 3 of Division 2, one of the following as selected by the employer:

(A) a calendar day;

(B) any other period of 24 consecutive hours commencing at the time the employee is scheduled to begin work”; **and**

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

“(f) ‘employee’ includes:

(i) a person receiving or entitled to wages;

(ii) a person whom an employer permits, directly or indirectly, to perform work or services normally performed by an employee;

(iii) a person being trained by an employer for the employer’s business;

(iv) a person on an employment leave from employment with an employer;

(v) any other prescribed person; and

(vi) a deceased person who, at the relevant time, was a person described in any of subclauses (i) to (v);

but does not include a person engaged in a prescribed activity”.

Section 2-8 repealed

4 Section 2-8 is repealed.

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Section 2-11 amended**5(1) Subsection 2-11(1) is repealed and the following substituted:**

“(1) An employer shall give notice to an employee of a work schedule containing the following:

- (a) the time when work begins and ends;
- (b) if work is done in shifts, the time when each shift begins and ends;
- (c) the time when a meal break begins and ends;
- (d) what constitutes a day for the purposes of Subdivisions 2 and 3 of this Division”.

(2) Subsection 2-11(6) is repealed and the following substituted:

“(6) The director of employment standards may permit a variation from the requirements of this section if the employer has obtained written consent to the variation from the employees.

“(7) If employees have a union as their bargaining agent and the employer and the union have agreed to different requirements respecting the notice mentioned in this section, the notice requirements of this section do not apply to those employees”.

Section 2-13 amended**6(1) Subsection 2-13(1) is amended by striking out “in any day” and substituting “within any period of 24 consecutive hours”.****(2) Subsection 2-13(3) is amended by striking out “to (6)” and substituting “and (5)”.****(3) Subsections 2-13(5) and (6) are repealed and the following substituted:**

“(5) On receipt of a written application from an employer and the employees or a representative of the employees, the director of employment standards may:

- (a) issue a written authorization exempting the employer from subsection (3); and
- (b) impose any conditions that the director considers appropriate on the written authorization issued pursuant to clause (a)”.

Section 2-14 amended**7(1) Subsection 2-14(1) is amended by striking out “and (4)” and substituting “to (6)”.****(2) The following subsections are added after subsection 2-14(4):**

“(5) The director of employment standards may permit a variation from the requirements of this section if the employer has obtained written consent to the variation from the employees.

“(6) If employees have a union as their bargaining agent and the employer and the union have agreed to different requirements respecting meal breaks, subsections (1) to (5) do not apply to those employees”.

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Section 2-18 amended

8 Subsection 2-18(4) is amended in the portion preceding clause (a) by striking out “, subsection (1) of this section and section 2-19” and substituting “and subsection (1)”.

Section 2-35 amended

9 Subsection 2-35(1) is repealed and the following substituted:

- “(1) An employer shall pay all wages to an employee in Canadian currency:
- (a) in cash;
 - (b) by cheque drawn on a bank, credit union or trust corporation;
 - (c) by deposit to the employee’s account in a bank, credit union or trust corporation; or
 - (d) by a prescribed means”.

Section 2-36 amended

10 Subsection 2-36(2) is repealed and the following substituted:

- “(2) In addition to deductions permitted or required pursuant to law, an employer may deduct the following from an employee’s wages:
- (a) employee contributions to pension plans or registered retirement savings plans;
 - (b) employee contributions to other benefit plans;
 - (c) charitable donations voluntarily made by the employee;
 - (d) voluntary contributions by the employee to savings plans or the purchase of bonds;
 - (e) initiation fees, dues and assessments to a union that is the bargaining agent for the employee;
 - (f) voluntary employee purchases from the employer of any goods, services or merchandise;
 - (g) deductions for purposes or categories of purposes that are specified pursuant to subsection (3);
 - (h) wage advances;
 - (i) the costs associated with voluntary training that the employee was not required to obtain;
 - (j) housing or moving allowances provided with the consent of the employee”.

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New section 2-36.1

11 The following section is added after section 2-36:**“Employee gratuities**

2-36.1(1) Except as permitted or required pursuant to this Act, any other Act or any Act of the Parliament of Canada, an employer shall not, directly or indirectly, withhold gratuities from an employee, make a deduction from an employee’s gratuities or cause the employee to return or give the employee’s gratuities to the employer.

(2) If an employer contravenes subsection (1), the amount withheld, deducted, returned or given is a debt owing to the employee and is deemed to be wages owing and this Part applies to the recovery of that monetary loss.

(3) Notwithstanding subsection (1), an employer may establish a pooling arrangement regarding gratuities in accordance with prescribed conditions and requirements”.

New section 2-40

12 Section 2-40 is repealed and the following substituted:**“Protection of employees for illness or injury**

2-40(1) Subject to subsections (2) to (5), except for just cause unrelated to injury or illness, no employer shall take discriminatory action against an employee because of absence:

- (a) due to the illness or injury of the employee; or
- (b) due to the illness or injury of a member of the employee’s immediate family who is dependent on the employee.

(2) Subsection (1) only applies if:

- (a) the employee has been in the employer’s service for more than 13 consecutive weeks before the absence;
- (b) the absence does not exceed:
 - (i) a total of 12 days in a calendar year, in the case of illness or injury that is not serious; or
 - (ii) 27 weeks in a period of 52 weeks, in the case of serious illness or injury or if the employee is receiving compensation pursuant to *The Workers’ Compensation Act, 2013*; and

(c) the employee, if requested in writing by the employer, provides the employer with a certificate of a duly qualified medical practitioner certifying that the employee was incapable of working due to illness or injury or certifying the illness or injury of the member of the employee’s immediate family, as the case may be.

(3) An employer shall not request a certificate pursuant to clause (2)(c) unless:

- (a) the absence continues for more than 5 consecutive working days; or
- (b) the employee has had non-consecutive absences of 2 or more working days due to sickness or injury in the preceding 12 months.

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(4) The protection afforded by subclause (2)(b)(i) does not apply if it can be demonstrated that the employee has a record of chronic absenteeism and there is no reasonable expectation of improved attendance.

(5) If the absence due to the illness or injury of an employee is the result of an event described in clause 2-59.1(2)(a) or (b), the employee is exempt from the requirements of clauses (2)(a) and (c) of this section.

(6) Nothing in this section limits or abrogates an employee's rights at common law or pursuant to *The Saskatchewan Human Rights Code, 2018*".

Section 2-42 amended**13 Subsections 2-42(2) and (3) are repealed and the following substituted:**

“(2) Unless authorized by this Part, no employer shall take discriminatory action against an employee because the employee:

- (a) requests or requires the employer to comply with any right or benefit conferred on employees by this Part, the regulations made pursuant to this Part or an authorization issued pursuant to this Part;
- (b) requests or requires the employer to comply with any restriction or prohibition imposed on the employer by this Part, the regulations made pursuant to this Part or an authorization issued pursuant to this Part;
- (c) is pregnant or is temporarily disabled because of pregnancy;
- (d) has applied for or taken an employment leave or is otherwise absent from the workplace in accordance with this Part, whether or not the employee is reinstated to the employee's former position or a similar position after the employment leave or absence;
- (e) has requested a modification of the employee's duties or a reassignment to other duties for reasons set out in section 2-41 or subsection 2-49(4);
- (f) seeks or has sought the enforcement of any provision in this Part or the regulations made pursuant to this Part;
- (g) has had the employee's wages seized or attached;
- (h) has reported or proposed to report to a lawful authority any activity that is or is likely to result in an offence pursuant to an Act or an Act of the Parliament of Canada; or
- (i) has testified or may be called on to testify in an investigation or proceeding pursuant to this Act, another Act or an Act of the Parliament of Canada.

“(3) Clauses (2)(h) and (i) do not apply if the actions of an employee are frivolous or vexatious”.

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Section 2-44 amended

14 Section 2-44 is amended by striking out “unpaid”.

Section 2-49 amended

15 Subsection 2-49(6) is repealed and the following substituted:

“(6) An employee who experiences a loss of pregnancy on a date not more than 20 weeks before the estimated date of birth may take a leave pursuant to this section”.

New section 2-55

16 Section 2-55 is repealed and the following substituted:

“Bereavement leave

2-55(1) An employee is entitled to a bereavement leave of 5 days in each of the following cases:

- (a) the death of a member of the employee’s immediate family or any other prescribed person;
- (b) the loss of pregnancy of:
 - (i) the employee;
 - (ii) the employee’s immediate family member; or
 - (iii) any other person if the employee would have been a parent to a child born as a result of the pregnancy.

(2) The leave mentioned in subsection (1) must be taken within 6 months after the death or loss of pregnancy with respect to which the leave is granted”.

Section 2-56.1 amended

17(1) Subsection 2-56.1(2) is amended by striking out the portion preceding clause (a) and substituting the following:

“An employee is entitled to a leave if a victim is subjected:”.

(2) The following subsection is added after subsection 2-56.1(3):

“(3.1) An employee is entitled pursuant to this section to leave in a period of 52 weeks:

- (a) of up to 10 days, which the employee may choose to take intermittently or in one continuous period; and
- (b) of up to 16 weeks to be taken in one continuous period”.

(3) Subsection 2-56.1(8) is amended:

(a) by striking out “and” after clause (a);

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

“(b) unpaid leave for a further 5 days in each period of 52 weeks; and”; **and**

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

“(c) unpaid leave of up to 16 weeks in each period of 52 weeks”.

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Section 2-59.1 amended

18 Clause 2-59.1(5)(b) is amended by striking out “to provide to care” and substituting “to provide care”.

Section 2-61 amended

19 Subsection 2-61(1) is amended:

(a) in the portion preceding clause (a) by adding “or the portion of that period of notice that was not provided to the employee” after “section 2-60”; and

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

“(a) if the employer is not bound by a collective agreement that applies to the employee, the greater of:

(i) the sum earned by the employee during that period of notice or portion of that period of notice, as the case may be; and

(ii) a sum equivalent to the employee’s normal wages for that period of notice or portion of that period of notice, as the case may be, excluding vacation entitlements that would have accrued during that period of notice or portion of that period of notice, as the case may be”.

Section 2-62 amended

20 Subsection 2-62(1) is amended in the portion preceding clause (a) by striking out “10” and substituting “25”.

New Division 5 heading

21 The heading to Division 5 of Part II is struck out and the following substituted:

“Referrals, Appeals, Wage Assessments, Certificates and Collections”.

New sections 2-73.1 to 2-74

22 Section 2-74 is repealed and the following substituted:

“Definitions for Division

2-73.1(1) In this Division, ‘**adjudicator**’ means an adjudicator selected pursuant to subsection 4-3(3).

(2) In this Division and in Part IV, ‘**person who is directly affected by a decision**’ means any of the following persons to whom a decision of the director of employment standards is directed and who is directly affected by that decision:

(a) an employee;

(b) an employer;

(c) a corporate director;

(d) any other prescribed person or member of a category of prescribed persons;

but does not include any prescribed person or category of prescribed persons that is exempted from this definition.

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“Referral to the director of employment standards

2-73.2(1) An employee who, on reasonable grounds, believes that the employer has taken discriminatory action pursuant to section 2-40 or 2-42 against the employee for any reason mentioned in this Part may refer the matter to the director of employment standards.

(2) If the director of employment standards decides that an employer has taken discriminatory action against an employee for any reason prohibited by this Part, the director shall serve a notice of decision on the employer and the employee requiring the employer to do any or all of the following:

- (a) cease the discriminatory action;
- (b) reinstate the employee to the employee’s former employment on the same terms and conditions pursuant to which the employee was formerly employed;
- (c) pay to the employee any wages that the employee would have earned if the employee had not been wrongfully discriminated against;
- (d) remove any reprimand or other reference to the matter from any employment records maintained by the employer with respect to the employee.

(3) A notice of decision must:

- (a) cite the contravened provision of this Part or of the regulations made pursuant to this Part;
- (b) state the reasons for the decision of the director of employment standards;
- (c) include a wage assessment issued pursuant to section 2-74 if the director requires the employer to pay any wages pursuant to clause (2)(c); and
- (d) require the person to remedy the contravention within a period specified by the director in the notice of decision.

(4) If the director of employment standards decides that no discriminatory action has been taken against an employee for any of the reasons set out in this Part, the director shall advise the employee of the reasons for that decision in writing.

(5) If discriminatory action has been taken against an employee who has acted or participated in an activity described in section 2-40 or 2-42:

- (a) in any prosecution or other proceeding taken pursuant to this Part, there is a presumption in favour of the employee that the discriminatory action was taken against the employee because the employee acted or participated in an activity described in this Part; and
- (b) the onus is on the employer to establish that the discriminatory action was taken against the employee for good and sufficient other reason.

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(6) The director of employment standards may, at any time after a referral is made pursuant to this section, defer further action if another proceeding, in the opinion of the director, is more appropriate having regard to the nature of the allegations and the remedies available in the other proceeding.

“Appeals re discriminatory action

2-73.3(1) A person who is directly affected by a decision of the director of employment standards made pursuant to section 2-73.2 may appeal the decision to an adjudicator.

(2) Notwithstanding subclause 2-74(4)(b)(ii) and section 2-75, an appeal of a decision made pursuant to section 2-73.2 that includes a wage assessment must be made in accordance with this section and not in accordance with section 2-75.

(3) A written notice of appeal pursuant to this section must be served on the director of employment standards within 15 business days after the date of service of the decision being appealed.

(4) The written notice of appeal must:

- (a) set out the names of all persons who are directly affected by the decision that is being appealed;
- (b) identify and state the decision being appealed;
- (c) set out the grounds of the appeal; and
- (d) set out the relief requested, including any request for the suspension of all or any portion of the decision being appealed.

(5) An appeal served pursuant to subsection (3) is to be heard by an adjudicator in accordance with Part IV.

(6) On receipt of the notice of appeal pursuant to subsection (3), the director of employment standards shall forward to the adjudicator:

- (a) the notice of appeal;
- (b) all information in the director’s possession that is related to the appeal, including a notice of decision pursuant to section 2-73.2; and
- (c) a list of all persons who are directly affected by the decision.

(7) An appellant may withdraw an appeal served pursuant to subsection (3) before the date of the hearing by serving a written notice of withdrawal on:

- (a) the director of employment standards;
- (b) the adjudicator, if an adjudicator was selected pursuant to section 4-3; and
- (c) any person who is directly affected by the decision made pursuant to section 2-73.2.

(8) If an appeal is withdrawn pursuant to subsection (7), the provisions in Part IV insofar as they relate to that appeal do not apply.

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“Decisions not stayed by appeals

2-73.4(1) Subject to subsections (2) and (3), the commencement of an appeal pursuant to section 2-73.3 does not stay the effect of the decision that is being appealed.

(2) The director of employment standards may, on the director’s own motion, stay the effect of all or any portion of a decision if an appeal from that decision is to be heard by the director.

(3) An adjudicator may, on the adjudicator’s own motion, stay the effect of all or any portion of a decision if an appeal from that decision is to be heard by the adjudicator.

“Wage assessments

2-74(1) If the director of employment standards has knowledge or has reasonable grounds to believe or suspects that an employer has failed or is likely to fail to pay wages as required pursuant to this Part, the director may issue a wage assessment against either or both of the following:

- (a) the employer;
- (b) subject to subsection (2), a corporate director.

(2) The director of employment standards may only issue a wage assessment against a corporate director if the director has knowledge or has reasonable grounds to believe or suspects that the corporate director is liable for wages in accordance with section 2-68.

(3) If the director of employment standards has issued a wage assessment pursuant to subsection (1), the director shall cause a copy of the wage assessment to be served on:

- (a) the employer or corporate director named in the wage assessment; and
- (b) each employee who is affected by the wage assessment.

(4) A wage assessment must:

- (a) indicate the amount claimed against the employer or corporate director;
- (b) direct the employer or corporate director to, within 15 business days after the date of service of the wage assessment:
 - (i) pay the amount claimed; or
 - (ii) commence an appeal pursuant to section 2-75; and
- (c) in the case of a wage assessment issued after money has been received from a third party pursuant to a demand issued pursuant to Division 4, set out the amount paid to the director of employment standards by the third party.

(5) The director of employment standards may, at any time, amend or revoke a wage assessment”.

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Section 2-75 amended**23(1) Subsection 2-75(2) is repealed and the following substituted:**

“(2) A written notice of appeal pursuant to this section must be served on the director of employment standards within 15 business days after the date of service of a wage assessment”.

(2) Subsection 2-75(3) is amended in the portion preceding clause (a) by striking out “filed” and substituting “served”.**(3) Subsection 2-75(7) is amended by striking out “filed” and substituting “served”.****(4) The following subsections are added after subsection 2-75(10):**

“(11) An appellant may withdraw an appeal served pursuant to subsection (2) before the date of the hearing by serving a written notice of withdrawal on:

- (a) the director of employment standards;
- (b) the adjudicator, if an adjudicator was selected pursuant to section 4-3; and
- (c) any person who is directly affected by the decision being appealed.

“(12) If an appeal is withdrawn pursuant to subsection (11), the provisions in Part IV insofar as they relate to that appeal do not apply”.

Section 2-76 amended**24(1) Subsection 2-76(2) is repealed and the following substituted:**

“(2) This section applies to a complaint by an employee that an employer has failed to comply with the obligation to pay equal pay in accordance with section 2-21”.

(2) The following subsection is added after subsection 2-76(7):

“(8) Any complaint made by an employee pursuant to clause (2)(b) as that clause read before the coming into force of *The Saskatchewan Employment Amendment Act, 2024* and that the director of employment standards has received, but with respect to which the director has not rendered a decision, is deemed to be a referral to the director pursuant to section 2-73.2 and shall be dealt with in accordance with that section”.

Section 2-87 amended**25 Subclause 2-87(1)(a)(i) is amended by adding “2-73.3,” after “sections”.****Section 2-95 amended****26 Clause 2-95(1)(d) is repealed and the following substituted:**

“(d) fail to comply with:

- (i) any provision of this Part;
- (ii) any regulations made pursuant to this Part;
- (iii) any authorization issued pursuant to this Part; or
- (iv) any decision made pursuant to this Part.

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Section 2-96 amended

27(1) Subsection 2-96(1) is amended in the portion preceding clause (a) by striking out “Subject to subsection (3), if” and substituting “If”.

(2) Subsections 2-96(3) and (4) are repealed.

Section 2-97 amended

28 Subsection 2-97(3) is repealed and the following substituted:

“(3) If an employer is convicted of taking discriminatory action against an employee contrary to this Part, the convicting court may, in addition to any other penalty imposed, order the employer to do all or any of the following:

- (a) cease the discriminatory action;
- (b) reinstate the employee to the employee’s former employment on the same terms and conditions pursuant to which the employee was formerly employed;
- (c) pay to the employee any wages that the employee would have earned if the employee had not been wrongfully discriminated against;
- (d) remove any reprimand or other reference to the matter from any employment records maintained by the employer with respect to the employee”.

Section 2-99 amended

29 Section 2-99 is amended:

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

- “(e) for the purposes of clause 2-1(f):
- (i) prescribing activities; and
 - (ii) prescribing other persons”;

(b) by adding the following clauses after clause (h):

- “(h.1) for the purposes of section 2-36.1, defining gratuities;
- “(h.2) for the purposes of subsection 2-36.1(3), prescribing conditions and requirements for pooling arrangements”;

(c) by adding the following clause after clause (j):

- “(j.01) for the purposes of section 2-55, prescribing other persons”; **and**

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

- “(k.1) for the purposes of subsection 2-73.1(1):
- (i) prescribing persons or categories of persons as persons directly affected by a decision of the director of employment standards; and
 - (ii) prescribing persons or categories of person who are not persons directly affected by a decision of the director of employment standards”.

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Division 8 of Part II repealed

30 Division 8 of Part II is repealed.

Section 4-4 amended

31 Subclause 4-4(1)(b)(i) is repealed and the following substituted:

- “(i) in the case of an appeal or hearing pursuant to Part II:
 - (A) the director of employment standards; and
 - (B) all persons who are directly affected by the decision being appealed”.

Section 4-6 amended

32(1) Subsection 4-6(1) is amended by striking out “subsections (4) and (5)” and substituting “subsection (4)”.

(2) Subsection 4-6(5) is repealed.

Section 4-8 amended

33(1) Subsection 4-8(1) is amended by striking out “An employer, employee or corporate director” and substituting “A person”.

(2) Clause 4-8(4)(a) is repealed and the following substituted:

- “(a) in the case of an appeal or hearing pursuant to Part II, the wage assessment or any written decision of a director of employment standards respecting the matter that is the subject of the appeal”.

Section 4-10 amended

34 Clause 4-10(3)(a) is repealed and the following substituted:

- “(a) in the case of an appeal or hearing pursuant to Part II, the wage assessment or any written decision of the director of employment standards respecting the matter that is the subject of the appeal”.

Section 5-23 amended

35 Subsection 5-23(2) is amended in the portion preceding clause (a) by adding “, unless the context requires otherwise,” after “means”.

Section 9-13 amended

36 Clause 9-13(2)(c) is amended by striking out “five” and substituting “10”.

Coming into force

37 This Act comes into force by order of the Lieutenant Governor in Council.

FIRST SESSION

Thirtieth Legislature

SASKATCHEWAN

BILL

No. 5

An Act to amend *The Saskatchewan Employment Act*

Received and read the

First time

Second time

Third time

And passed

Honourable Jim Reiter
