

## EXPLANATORY NOTES

### BILL

### No. 91

#### **An Act to amend *The Saskatchewan Employment Act***

#### **Clause of Bill**

**1**      *The Saskatchewan Employment (Part III) Amendment Act, 2022*

**2**      *The Saskatchewan Employment Act*

**3**      **Existing Provision**

#### **Interpretation of Part**

**3-1(1)** In this Part and in Part IV:

(a) **“biological substance”** means a substance containing living organisms, including infectious micro-organisms, or parts of organisms or products of organisms in their natural or modified forms;

(b) **“chemical substance”** means any natural or artificial substance, whether in the form of a solid, liquid, gas or vapour, other than a biological substance;

(c) **“chief mines inspector”** means the chief mines inspector appointed pursuant to section 3-5;

(d) **“chief occupational medical officer”** means the chief occupational medical officer appointed pursuant to section 3-4;

(e) **“competent”** means possessing knowledge, experience and training to perform a specific duty;

(f) **“compliance undertaking”** means a compliance undertaking entered into pursuant to section 3-38;

(g) **“contractor”** means a person who, or a partnership or group of persons that, pursuant to one or more contracts:

(i) directs the activities of one or more employers or self-employed

persons involved in work at a place of employment; or

(ii) subject to subsection (3), retains an employer or self-employed person to perform work at a place of employment;

(h) **“director of occupational health and safety”** means the director of occupational health and safety appointed pursuant to section 3-3;

(i) **“discriminatory action”** means any action or threat of action by an employer that does or would adversely affect a worker with respect to any terms or conditions of employment or opportunity for promotion, and includes termination, layoff, suspension, demotion or transfer of a worker, discontinuation or elimination of a job, change of a job location, reduction in wages, change in hours of work, reprimand, coercion, intimidation or the imposition of any discipline or other penalty, but does not include:

(i) the temporary assignment of a worker to alternative work, pursuant to section 3-44, without loss of pay to the worker; or

(ii) the temporary assignment of a worker to alternative work, without loss of pay to the worker, while:

(A) steps are being taken for the purposes of clause 3-31(a) to satisfy the worker that any particular act or series of acts that the worker refused to perform pursuant to that clause is not unusually dangerous to the health or safety of the worker or any other person at the place of employment;

(B) the occupational health committee is conducting an investigation pursuant to clause 3-31(b) in relation to the worker’s refusal to perform any particular act or series of acts; or

(C) an occupational health officer is conducting an investigation requested by a worker or an employer pursuant to clause 3-32(a);

(j) **“employer”** means, subject to section 3-29, a person, firm, association or body that has, in connection with the operation of a place of employment, one or more workers in the service of the person, firm, association or body;

(k) **“equipment”** means any mechanical or non-mechanical article or device, and includes any machine, tool, appliance, apparatus, implement, service or utility, but does not include the personal property owned by an individual unless that property is used in the carrying on of an occupation;

(l) **“harassment”** means:

(i) any inappropriate conduct, comment, display, action or gesture by a person towards a worker:

(A) that either:

(I) is based on any prohibited ground as defined in *The Saskatchewan Human Rights Code, 2018* or on physical size or weight; or

(II) subject to subsections (4) and (5), adversely affects the worker’s psychological or physical well-being and that the person knows or ought reasonably to know would cause the worker to be humiliated or intimidated; and

(B) that constitutes a threat to the health or safety of the worker;  
or

(ii) any conduct, comment, display, action or gesture by a person towards a worker that:

(A) is of a sexual nature; and

(B) the person knows or ought reasonably to know is unwelcome;

(m) **“notice of contravention”** means a notice of contravention served pursuant to section 3-38;

(n) **“occupation”** means employment, business, calling or pursuit;

(o) **“occupational health and safety”** means:

(i) the promotion and maintenance of the highest degree of physical, mental and social well-being of workers;

(ii) the prevention among workers of ill health caused by their working conditions;

(iii) the protection of workers in their employment from factors adverse to their health;

(iv) the placing and maintenance of workers in working environments that are adapted to their individual physiological and psychological conditions; and

(v) the promotion and maintenance of a working environment that is free of harassment;

(p) **“occupational health and safety representative”** means an occupational health and safety representative designated pursuant to section 3-24;

(q) **“occupational health and safety service”** means a service organized in or near a place of employment for the purposes of:

(i) protecting workers against any health or safety hazard that may arise out of their work or the working conditions under which it is carried on;

(ii) contributing to the workers’ physical and mental adjustment in their employment and their assignment to jobs for which they are suited; and

(iii) contributing to the establishment and maintenance of a high degree of physical and mental well-being in the workers;

(r) **“occupational health committee”** means an occupational health committee established pursuant to section 3-22 or 3-23 or the regulations made pursuant to this Part;

(s) **“occupational health officer”** means a person appointed as an occupational health officer pursuant to section 3-6;

(t) **“owner”** includes:

(i) a trustee, receiver, mortgagee in possession, tenant, lessee or occupier of any lands or premises used or to be used as a place of employment; and

(ii) any person who acts for or on behalf of a person mentioned in subclause (i) as that person’s agent or delegate;

(u) **“physician”** means a duly qualified medical practitioner;

(v) **“place of employment”** means any plant in or on which one or more workers or self-employed persons work, usually work or have worked;

(w) **“plant”** includes any premises, site, land, mine, water, structure, fixture or equipment employed or used in the carrying on of an occupation;

(x) **“practicable”** means possible given current knowledge, technology and invention;

(y) **“prime contractor”** means the person who is the prime contractor in accordance with section 3-13;

(z) **“reasonably practicable”** means practicable unless the person on whom a duty is placed can show that there is a gross disproportion between the benefit of the duty and the cost, in time, trouble and money, of the measures to secure the duty;

(aa) **“registered nurse”** means a nurse registered pursuant to *The Registered Nurses Act, 1988*;

(bb) **“self-employed person”** means a person who is engaged in an occupation but is not in the service of an employer;

(cc) **“structure”** includes any building, support for equipment, factory, road, dam, bridge, waterway, dock, railway or excavation;

(dd) **“supervisor”** means an individual who is authorized by an employer to oversee or direct the work of the employer’s worker;

(ee) **“supplier”** means, unless otherwise stated, a person who supplies, sells, offers or exposes for sale, leases, distributes or installs any biological substance or chemical substance or any plant to be used at a place of employment;

(ff) **“train”** means to give information and explanation to a worker with respect to a particular subject-matter and to require a practical demonstration that the worker has acquired knowledge or skill related to the subject-matter;

(gg) **“worker”** means, subject to subsection (6):

(i) an individual, including a supervisor, who is engaged in the service of an employer; or

(ii) a member of a prescribed category of individuals;

but does not include an inmate, as defined in *The Correctional Services Act, 2012*, of a correctional facility as defined in that Act who is participating in a work project or rehabilitation program within the correctional facility;

(hh) “**worksite**” means an area at a place of employment where a worker works or is required or permitted to be present.

(2) In this Part:

(a) if a provision refers to any matter or thing that an employer is required to do in relation to workers, the provision applies to workers who are in the service of that employer, unless the context requires otherwise; and

(b) if a provision refers to any matter or thing that an employer is required to do in relation to a place of employment, the provision applies to every place of employment of that employer, unless the context requires otherwise.

(3) For the purposes of subclause (1)(g)(ii), a person, partnership or group of persons is considered to be a contractor only if that person, partnership or group of persons knows or ought reasonably to know the provisions of this Part and the regulations made pursuant to this Part respecting the work or the place of employment at the time of retaining the employer or self-employed person to perform work at a place of employment.

(4) To constitute harassment for the purposes of subparagraph (1)(l)(i)(A)(II), either of the following must be established:

(a) repeated conduct, comments, displays, actions or gestures;

(b) a single, serious occurrence of conduct, or a single, serious comment, display, action or gesture, that has a lasting, harmful effect on the worker.

(5) For the purposes of subparagraph (1)(l)(i)(A)(II), harassment does not include any reasonable action that is taken by an employer, or a manager or supervisor employed or engaged by an employer, relating to the management and direction of the employer’s workers or the place of employment.

(6) For the purposes of clause (1)(l), subsections (4) and (5), clause 3-8(d), clause 3-9(c) and clause 3-10(b), a worker includes:

(a) a person who is enrolled in a secondary or post-secondary educational institution and who:

(i) is permitted by an employer, directly or indirectly, to perform work or services; or

(ii) is being trained by an employer;

(b) a volunteer that an employer permits, directly or indirectly, to perform work or services; and

(c) an independent or dependent contractor.

2013, c.S-15.1, s.3-1; 2021, c 38, s.3.

**(1)(a) Explanation**

Clause (1)(i) is amended to include individuals acting on behalf of employers.

**(1)(b) Explanation**

Subclause (gg)(i) is amended to ensure that students are covered by Part III of the Act.

**(2) Explanation**

Subsection (6) is amended to ensure that volunteers and independent and dependent contractors are protected under the violence provisions of the Act.

**4 Existing Provision**

**General duties of employer**

**3-8** Every employer shall:

(a) ensure, insofar as is reasonably practicable, the health, safety and welfare at work of all of the employer's workers;

(b) consult and cooperate in a timely manner with any occupational health committee or the occupational health and safety representative at the place of employment for the purpose of resolving concerns on matters of health, safety and welfare at work;

- (c) make a reasonable attempt to resolve, in a timely manner, concerns raised by an occupational health committee or occupational health and safety representative pursuant to clause (b);
- (d) ensure, insofar as is reasonably practicable, that the employer's workers are not exposed to harassment with respect to any matter or circumstance arising out of the workers' employment;
- (e) cooperate with any other person exercising a duty imposed by this Part or the regulations made pursuant to this Part;
- (f) ensure that:
  - (i) the employer's workers are trained in all matters that are necessary to protect their health, safety and welfare; and
  - (ii) all work at the place of employment is sufficiently and competently supervised;
- (g) if the employer is required to designate an occupational health and safety representative for a place of employment, ensure that written records of meetings with the occupational health and safety representative are kept and are readily available at the place of employment;
- (h) ensure, insofar as is reasonably practicable, that the activities of the employer's workers at a place of employment do not negatively affect the health, safety or welfare at work of the employer, other workers or any self-employed person at the place of employment; and
- (i) comply with this Part and the regulations made pursuant to this Part.

2013, c.S-15.1, s.3-8.

### **Explanation**

A new clause (d.1) is added to clarify that employers have a duty to ensure workers are not exposed to violence in the course of their employment.



## **5      Existing Provision**

### **General duties of supervisors**

#### **3-9 Every supervisor shall:**

- (a) ensure, insofar as is reasonably practicable, the health and safety at work of all workers who work under the supervisor's direct supervision and direction;
- (b) ensure that workers under the supervisor's direct supervision and direction comply with this Part and the regulations made pursuant to this Part;
- (c) ensure, insofar as is reasonably practicable, that all workers under the supervisor's direct supervision and direction are not exposed to harassment at the place of employment;
- (d) cooperate with any other person exercising a duty imposed by this Part or the regulations made pursuant to this Part; and
- (e) comply with this Part and the regulations made pursuant to this Part.

2013, c.S-15.1, s.3-9.

### **Explanation**

A new clause (c.1) is added to clarify supervisor's duty to ensure that workers under the supervisor's control are not exposed to violence in the course of their employment.

## **6      Existing Provision**

### **General duties of workers**

#### **3-10 Every worker while at work shall:**

- (a) take reasonable care to protect his or her health and safety and the health and safety of other workers who may be affected by his or her acts or omissions;
- (b) refrain from causing or participating in the harassment of another worker;
- (c) cooperate with any other person exercising a duty imposed by this Part or the regulations made pursuant to this Part; and

(d) comply with this Part and the regulations made pursuant to this Part.

2013, c.S-15.1, s.3-10.

**Explanation**

A new clause (b.1) is added to clarify that workers must refrain from violence towards another worker.

**7**

**Existing Provision**

**Duty re policy statement on violence and prevention plan**

**3-21(1)** An employer operating at a prescribed place of employment where violent situations have occurred or may reasonably be expected to occur shall develop and implement a written policy statement and prevention plan to deal with potentially violent situations after consultation with:

- (a) the occupational health committee;
- (b) the occupational health and safety representative; or
- (c) the workers, if there is no occupational health committee and no occupational health and safety representative.

(2) A policy statement and prevention plan required pursuant to subsection (1) must include any prescribed provisions.

2013, c.S-15.1, s.3-21.

**(1) Explanation**

Subsection (1) is amended to require all workplaces to develop and implement a written policy and prevention plan on violence. Currently only prescribed workplaces must have a policy and prevention plan.

**(2) Explanation**

A new subsection (3) is added to clarify that employers must ensure every incident of violence at the workplace is investigated.

**8**

**Existing Provision**

None

### **Explanation**

The new section 3-21.1 is added to clarify that employers must develop a written policy to prevent harassment and ensure every incident of harassment is investigated.

**9**

### **Existing Provision**

#### **Referral to occupational health officer**

**3-36(1)** A worker who, on reasonable grounds, believes that the employer has taken discriminatory action against him or her for a reason mentioned in section 3-35 may refer the matter to an occupational health officer.

(2) If an occupational health officer decides that an employer has taken discriminatory action against a worker for a reason mentioned in section 3-35, the occupational health officer shall serve a notice of contravention requiring the employer to:

- (a) cease the discriminatory action;
- (b) reinstate the worker to his or her former employment on the same terms and conditions under which the worker was formerly employed;
- (c) subject to subsection (5), pay to the worker any wages that the worker would have earned if the worker had not been wrongfully discriminated against; and
- (d) remove any reprimand or other reference to the matter from any employment records maintained by the employer with respect to that worker.

(3) If an occupational health officer decides that no discriminatory action has been taken against a worker for any of the reasons set out in section 3-35, the occupational health officer shall advise the worker of the reasons for that decision in writing.

(4) If discriminatory action has been taken against a worker who has acted or participated in an activity described in section 3-35:

- (a) in any prosecution or other proceeding taken pursuant to this Part, there is a presumption in favour of the worker that the discriminatory action was taken against the worker because the worker acted or participated in an activity described in section 3-35; and

(b) the onus is on the employer to establish that the discriminatory action was taken against the worker for good and sufficient other reason.

(5) The amount of money that an occupational health officer may require to be paid pursuant to clause (2)(c) is to be reduced by an amount that the officer is satisfied that the worker earned or should have earned during the period when the employer was required to pay the worker the wages.

(6) The employer has the onus of establishing the amount of the reduction mentioned in subsection (5).

2013, c.S-15.1, s.3-36.

**(1) Explanation**

Housekeeping – clause (2)(c) is amended to remove reference to subsection (5) that is repealed.

**(2) Explanation**

Subsections (5) and (6) are repealed to discontinue the mitigation of wages for worker who suffered discriminatory action.

**10 Existing Provision**

**Order to reinstate worker wrongfully discriminated against**

**3-37(1)** If an employer is convicted of taking discriminatory action against a worker contrary to any provision of this Part, the convicting judge shall order the employer:

- (a) to cease the discriminatory action;
- (b) to reinstate the worker to his or her former employment on the same terms and conditions under which the worker was formerly employed;
- (c) subject to subsection (2), to pay to the worker any wages the worker would have earned if the worker had not been wrongfully discriminated against; and
- (d) to remove any reprimand or other reference to the matter from any employment records maintained by the employer with respect to that worker.

(2) The amount of wages that are ordered to be paid pursuant to clause (1)(c) must be reduced by an amount that the convicting judge is satisfied that the worker earned or should have earned during the period when the employer was required to pay the worker the wages.

(3) The employer has the onus of establishing the amount by which an award pursuant to clause (1)(c) should be reduced in accordance with subsection (2).

2013, c.S-15.1, s.3-37.

### **Explanation**

Subsections (2) and (3) are repealed to discontinue the mitigation of wages for worker who suffered discriminatory action.

## **11      Existing Provision**

### **Progress report**

**3-43** Within five business days after the end of the period specified in a compliance undertaking or notice of contravention within which a contravention is to be remedied, the person who entered into the compliance undertaking or on whom the notice of contravention is served:

(a) shall:

(i) provide the occupational health committee or occupational health and safety representative at the place of employment with respect to which the compliance undertaking or notice of contravention applies with a written report of the progress that has been made towards remedying each contravention of this Part or the regulations made pursuant to this Part that is stated in the compliance undertaking or notice of contravention; or

(ii) if there is no occupational health committee or occupational health and safety representative at the place of employment with respect to which the compliance undertaking or notice of contravention applies, post in a conspicuous location at the place of employment a written report of the progress that has been made towards remedying each contravention of this Part or the regulations made pursuant to this Part that is stated in the compliance undertaking or notice of contravention; and

(b) shall provide the occupational health officer who received the compliance undertaking or who served the notice of contravention with a written report of the progress that has been made towards remedying each contravention of this Part or the regulations made pursuant to this Part that is stated in the compliance undertaking or notice of contravention.

2013, c.S-15.1, s.3-43.

(a) **Explanation**

Housekeeping – section 3-43 is re-numbering to 3-43(1).

(b) **Explanation**

Subsection (2) is added which provides for the establishment of specific information in the progress report.

**12      Existing Provision**

**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;

(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).

2015, c.31, s.3.

### **Explanation**

Section 3-47 is amended to remove the definition of “appeal board” to align with the changes to the *Hazardous Materials Information Review Act* (Canada).

## **13      Existing Provision**

### **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;

(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.

2015, c.31, s.3.

### **Explanation**

Subsections (4) and (5) are repealed to align with the changes to the *Hazardous Materials Information Review Act* (Canada).

## **14      Existing Provision**

### **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).

2013, c.S-15.1, s.3-51; 2015, c.31, s.3.

**(1)(a) Explanation**

Clause (2)(a) is amended to align with the changes to the *Hazardous Materials Information Review Act* (Canada).

**(1)(b) Explanation**

Clause (2)(b) is amended to align with the changes to the *Hazardous Materials Information Review Act* (Canada).

**(2)(a) Explanation**

Subsection (3) is amended to align with the changes to the *Hazardous Materials Information Review Act* (Canada).

**(2)(b) Explanation**

Subclause (3)(a)(ii) is amended to align with the changes to the *Hazardous Materials Information Review Act* (Canada).

**15 Existing Provision**

**Appeal of occupational health officer decision**

**3-53(1)** A person who is directly affected by a decision of an occupational health officer may appeal the decision.

(2) An appeal pursuant to subsection (1) must be commenced by filing a written notice of appeal with the director of occupational health and safety within 15 business days after the date of service of the decision being appealed.

(3) 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.

(4) Subject to subsection (10) and section 3-54, an appeal pursuant to subsection (1) is to be conducted by the director of occupational health and safety.

(5) In conducting an appeal pursuant to subsection (1), the director of occupational health and safety shall:

- (a) provide notice of the appeal to persons who are directly affected by the decision; and
- (b) provide an opportunity to the persons who are directly affected by the decision to make written representations to the director as to whether the decision should be affirmed, amended or cancelled.

(6) The written representations by a person mentioned in clause (5)(b) must be made within:

- (a) 30 days after notice of appeal is provided to that person; or

(b) any further period permitted by the director of occupational health and safety.

(7) The director of occupational health and safety is not required to give an oral hearing with respect to an appeal pursuant to subsection (1).

(8) After conducting an appeal in accordance with this section, the director of occupational health and safety shall:

(a) affirm, amend or cancel the decision being appealed; and

(b) provide written reasons for the decision made pursuant to clause (a).

(9) The director of occupational health and safety shall serve a copy of a decision made pursuant to subsection (8) on all persons who are directly affected by the decision.

(10) Instead of hearing an appeal pursuant to this section, the director of occupational health and safety may refer the appeal to an adjudicator by forwarding to the adjudicator:

(a) the notice of appeal;

(b) all information in the director's possession that is related to the appeal; and

(c) a list of all persons who are directly affected by the decision.

2013, c.S-15.1, s.3-53.

**(1) Explanation**

Housekeeping – subsection (4) is amended to address the addition of subsection (11).

**(2) Explanation**

A new subsection (11) is added to authorize the director of occupational health and safety to defer action on an appeal if another proceeding is being advanced.

**Existing Provision****Discriminatory action during appeal**

**3-58(1)** This section applies if:

- (a) a worker commences an appeal on the basis of a decision made by an occupational health officer pursuant to subsection 3-33(2);
- (b) the director of occupational health and safety or an adjudicator amends the decision of the occupational health officer and decides that the act or series of acts is or was unusually dangerous to the health or safety of the worker or any other person at the place of employment; and
- (c) in the opinion of the director of occupational health and safety or the adjudicator, the employer has, on or after the day on which the occupational health officer advised the employer and the worker of his or her decision pursuant to subsection 3-33(2), taken discriminatory action against the worker as a result of the worker's refusal to perform certain acts pursuant to section 3-31.

(2) In the circumstances mentioned in subsection (1), the director of occupational health and safety or the adjudicator, as the case may be, may order an employer:

- (a) to cease the discriminatory action;
- (b) if the discriminatory action changed the worker's employment status or the terms and conditions of the worker's employment, to reinstate the worker to his or her former employment on the same terms and conditions under which the worker was employed before the discriminatory action was taken;
- (c) subject to subsection (3), if the discriminatory action adversely affected the wages of the worker, to pay to the worker any wages that the worker would have earned if the discriminatory action had not been taken against the worker; and
- (d) to remove any reprimand or other reference to the matter from any employment records maintained by the employer with respect to that worker.

(3) The amount of money that the director of occupational health and safety or an adjudicator may award pursuant to clause (2)(c) is to be reduced by an amount that the director or adjudicator is satisfied that the worker earned or should have earned during the period when the employer was required to pay the worker the wages.

(4) The employer has the onus of establishing the amount of the reduction mentioned in subsection (3).

2013, c.S-15.1, s.3-58.

**(1) Explanation**

Housekeeping – clause (2)(c) is amended to address the repeal of subsections (3) and (4).

**(2) Explanation**

Subsections (3) and (4) are repealed to discontinue the mitigation of wages for worker who suffered discriminatory action.

**17 Existing Provision**

**Inspections**

**3-63(1)** Subject to subsection (4), an occupational health officer may enter any premises, place of employment, worksite or vehicle and conduct an inspection for the purpose of:

- (a) preventing work-related incidents, injuries or illnesses;
- (b) ascertaining the cause and particulars of a work-related incident, injury or illness or of an incident that had the potential to cause a work-related incident, injury or illness;
- (c) making an inquiry in response to a complaint concerning occupational health and safety; or
- (d) determining whether there is compliance with this Part, the regulations made pursuant to this Part, a compliance undertaking, a notice of contravention or an order issued pursuant to a prescribed Act or regulation.

(2) An inspection may be conducted:

- (a) at any reasonable time; or

(b) at any other time if the occupational health officer has reasonable grounds to believe that a situation exists that is or may be hazardous to workers.

(3) When conducting an inspection in accordance with subsection (1), an occupational health officer may do all or any of the following things:

(a) make any inquiry the officer considers appropriate;

(b) require the use of any machinery, equipment, appliance or thing located at the place or premises to be demonstrated;

(c) conduct any tests, take any samples and make any examinations that the officer considers necessary or advisable;

(d) take one or more persons to any place to assist the officer and make arrangements with the person in charge of the place for those persons to re-enter the place to perform specified duties;

(e) require the production of, inspect and make copies of any books, records, papers or documents or of any entry in those books, records, papers or documents required to be kept by this Part or the regulations made pursuant to this Part;

(f) require the production of, inspect and make copies of any existing records related to training workers on matters related to occupational health and safety;

(g) subject to subsection (5), remove any books, records, papers or documents examined pursuant to this section for the purpose of making copies where a copy is not readily available, if a receipt is given;

(h) require any person whom the officer finds in or at a place of employment to provide the officer with any information the person has respecting the identity of the employer at that place of employment;

(i) require any person to provide the officer with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information;

(j) in order to produce information and records mentioned in this subsection, use any computer hardware or software or any other data storage, processing or retrieval device or system that is used by the person required to deliver the information and records.

(4) An occupational health officer shall not enter a private dwelling without a warrant issued pursuant to section 3-68 unless the occupant of the dwelling consents to the entry.

(5) An occupational health officer who removes any books, records, papers or documents pursuant to this section for the purpose of making copies shall:

(a) make those copies as soon as is reasonably possible; and

(b) promptly return the books, records, papers or documents from which the copies were made to:

(i) the place from which they were removed; or

(ii) any other place that may be agreed to by the officer and the person who produced them.

2013, c.S-15.1, s.3-63.

### **Explanation**

A new clause (3)(k) is added to clarify an occupational health officer's authority to take photograph and make recording during an inspection.

## **18      Existing Provision**

### **Inquiry**

**3-67(1)** Subject to subsection (2), an occupational health officer may require any person who the occupational health officer has reasonable cause to believe possesses any information respecting a work related fatality, serious injury or allegation of harassment to attend an interview and provide full and correct answers to any questions that the occupational health officer believes it necessary to ask.

(2) An interview held pursuant to subsection (1) is to be held in the absence of persons other than:

(a) a person nominated to be present by the person being interviewed; and



(b) any other persons whom the occupational health officer may allow to be present.

(3) No person shall fail to comply with a requirement imposed on the person pursuant to this section.

2013, c.S-15.1, s.3-67.

### **Explanation**

Section 3-67 is amended to authorize an occupational health safety officer to exclude a person nominated by an interviewee from attending an interview. The interviewee has a right to nominate another individual to be present.

## **19      Existing Provision**

### **Duties of Occupational Health and Safety Council**

**3-70(1)** The Occupational Health and Safety Council is to meet at the call of the minister or the chairperson, but, in any case, must meet at least once in each year.

(2) The Occupational Health and Safety Council shall:

(a) consider the following matters:

(i) occupational health and safety generally and the protection of workers and self-employed persons;

(ii) the appointment of advisory committees by the minister to assist in the administration of this Part;

(iii) any matter relating to occupational health and safety on which the minister seeks the opinion of the Occupational Health and Safety Council;  
and

(b) give advice or make recommendations to the minister on any matter mentioned in this subsection.

(3) At the request of the minister and when a review of this Part is required by section 9-13, the Occupational Health and Safety Council shall:

(a) review the adequacy of this Part and its administration; and

(b) report its findings and recommendations to the minister.

2013, c.S-15.1, s.3-70.

**Explanation**

Subsection (3) is repealed to ensure consistency between the responsibilities of the different councils in the Part of the Act.

**20**

**Existing Provision**

**Forwarding information to Workers' Compensation Board**

**3-75(1)** Subject to subsection (2) and to the regulations made pursuant to this Part, the director of occupational health and safety may forward to the Workers' Compensation Board any information respecting the occupational health and safety practices of an employer or any category of employers that the director considers appropriate for the purpose of improving occupational health and safety.

(2) Not less than 14 days before information is forwarded to the Workers' Compensation Board, the director of occupational health and safety shall send to an employer who is the subject of the information a copy of the information being forwarded that has not been previously provided to the employer.

2013, c.S-15.1, s.3-75.

**Explanation**

Housekeeping – subsection (2) is amended to change days to business days for consistency across the Part of the Act.

**21**

**Existing Provision**

**Regulations for Part**

**3-83(1)** The Lieutenant Governor in Council may make regulations:

(a) prescribing the standards to be established and maintained by specified persons for the protection of the health and safety of workers and self-employed persons at any place of employment;

(b) prescribing the contents of occupational health and safety programs;

(c) for the purposes of clause 3-1(1)(gg), prescribing categories of persons as workers;

(d) prescribing measures that employers must take to carry out their duties pursuant to section 3-8;

(e) for the purposes of section 3-13:

(i) prescribing the circumstances in which a prime contractor must be appointed;

(ii) prescribing the manner in which a prime contractor must be determined; and

(iii) prescribing the activities to be carried out by a prime contractor;

(f) for the purposes of clause 3-15(b):

(i) prescribing circumstances when a supplier must act in accordance with that clause; and

(ii) prescribing standards that equipment must be in compliance with;

(g) for the purposes of section 3-21:

(i) prescribing places of employment respecting which an employer shall develop and implement a written policy statement and prevention plan; and

(ii) prescribing provisions that must be included in a policy statement and prevention plan;

(h) for the purposes of section 3-23, respecting the establishment of additional occupational health committees and governing the powers of the director of occupational health and safety in ordering the establishment of additional occupational health committees;

(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;

(i) for the purposes of subsection 3-52(2):

(i) prescribing persons or categories of persons as persons directly affected by a decision of an occupational health officer; and

(ii) prescribing persons or categories of person who are not persons directly affected by a decision of an occupational health officer;

(j) regulating or prohibiting the manufacture, supply, storage, keeping or use of any biological substance or chemical substance or any plant and the carrying on of any process, procedure or undertaking;

(k) if necessary to ensure the health and safety of workers and self-employed persons, imposing requirements with respect to the design, construction, guarding, siting, installation, commissioning, examination, repair, maintenance, alteration, adjustment, dismantling, demolition, testing, inspection or use of any plant;

(l) imposing requirements with respect to the marking of any plant or any articles or equipment used or made at any plant and regulating or restricting the use of specified markings;

(m) imposing requirements with respect to the testing or examination of any substance produced, used, stored or otherwise found at a place of employment;

(n) imposing requirements with respect to the labelling of, and disclosure of information respecting, any substance produced, used, stored or otherwise found at a place of employment;

(o) if necessary to ensure the health and safety of workers, regulating the employment of or requiring the provision of alternative work for:

(i) any worker sensitized to any biological substance or chemical substance in the place of employment;

(ii) any pregnant worker; or

(iii) any other person;

(p) if necessary to ensure the health and safety of workers and self-employed persons, restricting the performance of specified functions to persons possessing specified qualifications or experience;

(q) requiring the making of arrangements to promote the health of workers, including arrangements for medical examinations and health surveys;

(r) requiring the registration of workers exposed to contaminants at a place of employment;

(s) requiring the making of arrangements to:

(i) monitor the atmospheric or other conditions in which persons work;

(ii) determine and record the exposure of workers to biological substances or chemical substances, processes or physical agents at the place of employment; or

(iii) provide for the registration of workers exposed to any biological substance or chemical substance, process or physical agent at the place of employment;

(t) respecting and governing any matter affecting the conditions in which persons work, including:

(i) the structural condition and stability of places of employment;

(ii) the means of access to and exit from places of employment;

(iii) the cleanliness, temperature, lighting, ventilation, adequacy of work space, noise levels and vibrations at places of employment; and

(iv) the existence of dust and fumes at places of employment;

- (u) respecting the provision of vaccinations against diseases associated with any occupation or category of occupations to any worker or worker in a category of workers who chooses to receive the vaccination;
- (v) providing for minimum standards of certain welfare facilities for workers, including an adequate water supply, sanitary and washing facilities, transportation and first-aid arrangements for sick or injured workers, cloakroom accommodation, sitting facilities and lunchroom facilities;
- (w) imposing requirements with respect to the provision and use in specified circumstances of protective clothing or equipment, including clothing affording protection against the hazards of work and against unusual exposure to the weather;
- (x) imposing requirements with respect to the instruction, training and supervision of workers;
- (y) respecting smoking or the prohibition of smoking in any place of employment, including the designation of the areas in which smoking will be permitted at a place of employment;
- (z) requiring reports to be made to the director of occupational health and safety;
- (aa) prescribing the contents of any report to be made to the minister;
- (bb) requiring the posting, provision, availability or distribution of specified information, instructions, notices, documents, signs or posters;
- (cc) prescribing any information, instructions, notices, documents, signs or posters that are to be posted, provided, made available or distributed pursuant to any provision of this Part;
- (dd) imposing requirements with respect to the keeping, preservation and submission of records and other documents necessary for the administration of this Part, including:
  - (i) the specifications, plans and maps of any plant, process or procedure;
  - (ii) any document containing a description of the composition of any substance;
  - (iii) records of any atmospheric condition in a plant; and

- (iv) records of worker exposure to a biological substance or chemical substance, process or physical agent at a place of employment;
- (ee) requiring prompt notification of specified kinds of occupational injuries, illnesses and dangerous occurrences and prescribing actions to be taken or not to be taken to facilitate inquiry into and prevention of recurrences of those injuries, illnesses and dangerous occurrences and prescribing to whom notice must be given;
- (ff) specifying conditions under which potentially hazardous work may be performed;
- (gg) requiring notice to the director of occupational health and safety respecting any person, premises or thing employed or used in specified hazardous activities as a condition of initiating or carrying on any of those activities;
- (hh) requiring the establishment of one or more occupational health committees by one or more employers, contractors or owners with respect to workers, work activities or places of employment;
- (ii) imposing duties on any person required to establish an occupational health committee with respect to the selection of members, the duties and responsibilities or the operation of the occupational health committee;
- (jj) respecting the composition, duties and functions of occupational health committees, the duties and functions of occupational health and safety representatives and the participation of workers in inspections, investigations and related matters;
- (kk) respecting the safety of any transportation provided by any prescribed person for use by workers;
- (ll) establishing and imposing requirements for any place of employment according to the type of activities carried on, the number of workers, the degree of hazard to the health and safety of workers and other persons, or the frequency and seriousness of accidents and occupational diseases at the place of employment;
- (mm) prescribing places of employment or categories of places of employment at which an employer is required to develop and implement a policy statement with respect to potentially violent situations and prescribing provisions that must be incorporated in the policy statement;

(nn) respecting or prescribing the conditions under which a licence, certificate or permit may be issued, suspended or cancelled;

(oo) respecting the forwarding of information to the Workers' Compensation Board by the director of occupational health and safety pursuant to section 3-75;

(pp) prescribing additional powers of the chief mines inspector;

(qq) for the purposes of section 3-64:

(i) prescribing the circumstances in which an employer must compile, post and provide statistics;

(ii) prescribing the manner in which statistics must be compiled; and

(iii) prescribing the matters to be included in the compilation of statistics;

(rr) prescribing or governing any other matter or thing required or authorized by this Part to be prescribed or governed in the regulations;

(ss) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Part.

(2) Any regulation made pursuant to this section may be made to apply:

(a) to all persons, to one or more persons or to one or more categories of persons; or

(b) to all places of employment or worksites, to one or more places of employment or worksites or to categories of places of employment or worksites.

(3) Subject to subsection (4), no regulation made pursuant to this section comes into force until a period of not less than 60 days has elapsed after it is published in *The Saskatchewan Gazette*.

(4) Subsection (3) does not apply if, in the opinion of the Lieutenant Governor in Council:

(a) an emergency exists;



(b) a delay in the coming into force of a regulation would be contrary to the public interest; or

(c) the subject-matter of the proposed regulation is of a minor nature.

2013, c.S-15.1, s.3-83; 2015, c-31, s.4.

**(1)(a) Explanation**

Clause (1)(g) is amended to remove the regulation-making authority to prescribe workplaces that must have a violence policy as all workplaces are required to have a policy now.

A new clause (1)(g.1) is added to provide the regulation-making authority to prescribe the content of a harassment policy.

**(1)(b) Explanation**

A new clause (1)(h.01) is included to provide the regulation-making authority to prescribe the content of a progress report under section 3-43 of the Act.

**(2) Explanation**

Housekeeping – subsections (3) and (4) are repealed to ensure consistency with other parts of the Act.

**22 Existing Provision**

None

**Explanation**

These amendments come into force on assent, except from section 7 which comes into force one year after the date of assent.