

EXPLANATORY NOTES
BILL
No. 5

An Act to amend *The Saskatchewan Employment Act*

**Clause
of Bill**

1 *The Saskatchewan Employment Amendment Act, 2024*

2 *The Saskatchewan Employment Act*

3 **Existing Provision**

Interpretation

2(1) In this Part and in Part IV:

(a) **“corporate director”** means a director of a corporation that is an employer;

(b) **“day”** means:

(i) for the purpose of Subdivisions 2 and 3 of Division 2, any period of 24 consecutive hours; and

(ii) for any other purpose, a calendar day;

(c) **“director of employment standards”** means the director of employment standards appointed pursuant to section 2-80;

(d) **“discriminatory action”** means any action or threat of action by an employer that does or would adversely affect an employee with respect to any terms or conditions of employment or opportunity for promotion, and includes termination, layoff, suspension, demotion or transfer of an employee, 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) any reassignment of duties for the reasons set out in section 2-41 or subsection 2-49(4); or

(ii) any other prescribed action;

(e) **“emergency circumstance”** means a situation where there is an imminent risk or danger to a person, property or an employer’s business that could not have been foreseen by the employer;

(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; and

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

but does not include a person engaged in a prescribed activity;

(g) **“employer”** means any person who employs one or more employees and includes every agent, manager, representative, contractor, subcontractor or principal and every other person who, in the opinion of the director of employment standards, either:

(i) has control or direction of one or more employees; or

(ii) is responsible, directly or indirectly, in whole or in part, for the payment of wages to, or the receipt of wages by, one or more employees;

(h) **“employment leave”** means a leave mentioned in Subdivision 11 of Division 2 that an employee is entitled to;

(i) **“employment standards officer”** means a person appointed as an employment standards officer pursuant to section 2-81;

(j) **“hourly wage”** means an amount an employee earns or is deemed to earn in an hour as determined in the prescribed manner;

(k) **“immediate family”** means:

(i) the employee’s spouse, parent, grandparent, child, grandchild, brother or sister or the spouse of the brother or sister; or

(ii) the employee’s spouse’s parent, grandparent, child, grandchild, brother or sister or the spouse of the brother or sister;

(l) **“layoff”** means the temporary interruption by an employer of the services of an employee for a period exceeding six consecutive work days;

(m) **“minimum wage”** means the minimum wage required to be paid pursuant to section 2-16;

(n) **“modified work arrangement”** means an arrangement whereby the employer requires or permits an employee to work or to be at the employer’s disposal that satisfies the requirements of section 2-19;

(o) **“overtime”** and **“overtime pay”** mean:

(i) pay at a rate of 1.5 times an employee’s hourly wage; or

(ii) pay at a prescribed rate for a prescribed category of employees;

(p) **“pay instead of notice”** means an amount of money that is payable to an employee pursuant to subclause 2-61(1)(a)(ii);

(q) **“payday”** means the day on which an employee’s wages are required to be paid in accordance with section 2-33;

(q.1) **“public health emergency”** means a public health emergency of international concern determined by the World Health Organization in accordance with the *International Health Regulations (2005)* or any subsequent *International Health Regulations*;

(r) **“public holiday pay”** means an amount of money that is payable to an employee pursuant to section 2-32;

(s) **“spouse”** means, with respect to an employee:

(i) the legally married spouse of the employee; or

(ii) a person with whom the employee cohabits and has cohabited as spouses:

(A) continuously for a period of not less than two years; or

(B) in a relationship of some permanence if the person and the employee are the parents of a child;

(t) **“total wages”** means all remuneration that the employee is paid or entitled to be paid by his or her employer but does not include:

(i) bonuses payable at the discretion of the employer; or

(ii) tips or other gratuities;

(u) **“vacation pay”** means an amount of money that is payable to an employee pursuant to section 2-27;

(v) **“wages”** means salary, commission and any other monetary compensation for work or services or for being at the disposal of an employer, and includes overtime, public holiday pay, vacation pay and pay instead of notice;

(w) **“week”** means:

(i) for the purposes of sections 2-11, 2-12 and 2-17 to 2-20:

(A) the period between midnight on a Saturday and midnight on the following Saturday; or

(B) any other period of seven consecutive days that the employer has consistently used when determining the schedule of an employee; and

(ii) for all other purposes, a period of seven consecutive calendar days.

2013, c.S-15.1, s.2-1; 2020, c 14, s.3.

(a) **Explanation**

The definition of **“day”** in clause (b) is amended to allow employers to define a day as either any period of 24 consecutive hours or a calendar day for the purposes of work schedules and overtime provisions;

(b) Explanation

The definition of “**employee**” in clause (f) is amended to allow for other categories of employees to be included by regulation.

4 Existing Provision

Prohibition on discriminatory action

2-8(1) 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;

(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; or

(g) has had his or her wages seized or attached.

(2) In any prosecution alleging a contravention of subsection (1), the onus is on the employer to prove that any discriminatory action taken against the employee was taken for good and sufficient cause.

2013, c.S-15.1, s.2-8.

Explanation

Section 2-8 is repealed and consolidated with similar sections relating to discriminatory action into the new section 2-73.2.

5 **Existing Provision**

Work schedules

2-11 (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; and
 - (c) the time when a meal break begins and ends.
- (2) The notice required pursuant to subsection (1) must cover at least one week.
- (3) If the days or times when an employee is required or permitted to work or to be at the employer's disposal change, the employer shall provide to the employee written notice of the change.
- (4) The notice required pursuant to subsection (3) must:
- (a) be given in a schedule that contains the information required pursuant to subsection (1) covering at least one week;
 - (b) be given at least one week before the start of the schedule;
 - (c) if the schedule mentioned in clause (a) changes after the schedule is provided as required pursuant to clause (b), be given one week before the employee is required or permitted to work or to be at the employer's disposal; and
 - (d) be personally given to the employee, posted in the workplace, posted online on a secure website to which the employee has access or provided in any other manner that informs the employee of the schedule.
- (5) An employer may provide notice of less than one week of a variation to an employee's schedule if unexpected, unusual or emergency circumstances arise.
- (6) The director of employment standards may permit a variation from the requirements of this section if the employer has obtained the written consent to the variation from the union that is the bargaining agent for the employees.

2013, c.S-15.1, s.2-11.

(1) Explanation

A new clause (1)(d) is added to ensure that employees are informed about what constitutes a day for the purposes of work schedules and overtime provisions.

(2) Explanation

Subsection (6) is amended to allow employers and unions to negotiate work schedule notice requirements without a permit from the director of employment standards.

A new subsection (7) has been added which allows employers with non-unionized employees to apply for a permit for a variation from the requirements of this section, with the written consent of the employees.

6 Existing Provision

Required period of rest

2-13 (1) Subject to subsection (2), no employer shall require or permit an employee to work or to be at the employer's disposal for periods that are scheduled so that the employee does not have a period of eight consecutive hours of rest in any day.

(2) Subsection (1) does not apply in emergency circumstances.

(3) Subject to subsections (4) to (6), an employer shall grant one day off every week to an employee who usually works or is at the disposal of the employer for 20 hours or more in a week.

(4) Subsection (3) does not apply to any prescribed workplace or prescribed category of employers or employees.

(5) In prescribed workplaces with more than 10 employees, or for prescribed categories of employees, an employer shall grant to employees in the workplace or to the category of employees two consecutive days off every week.

(6) 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).

2013, c.S-15.1, s.2-13.

(1) Explanation

Subsection (1) is amended to require an eight-hour rest period in any period of 24 hours rather than in a day.

(2) Explanation

Housekeeping – subsection (3) is amended to remove reference to subsection (6) that is repealed.

(3) Explanation

The existing subsection (5) is repealed, removing the separate requirement of two consecutive days off for prescribed workplaces or prescribed categories of employees. With this proposed change, subsection (3) will apply to all workers.

Subsection (6) has been renumbered as subsection (5).

7 Existing Provision

Meal breaks

2-14(1) Subject to subsections (2) and (4), an employer shall provide to an employee an unpaid meal break that is of at least 30 minutes' duration within every five consecutive hours of work.

(2) An employer is not required to grant a meal break pursuant to subsection (1):

(a) in unexpected, unusual or emergency circumstances; or

(b) if it is not reasonable for an employee to take a meal break.

(3) If the employer does not grant the meal break mentioned in subsection (1) and the employee works five or more consecutive hours, the employer shall permit an employee to eat while working.

(4) An employer shall provide to an employee an unpaid meal break at a time or times necessary for medical reasons.

2013, c.S-15.1, s.2-14.

(1) Explanation

Housekeeping – subsection (1) is amended to add a reference to new subsections (5) and (6).

(2) Explanation

A new subsection (5) is added to allow employers and unions to negotiate meal break requirements without a permit from the director of employment standards.

A new subsection (6) is added which allows employers with non-unionized employees to apply for a permit for a variation from the requirements of this section, with the written consent of the employees.

8 Existing Provision

Overtime pay after eight hours and 40 hours

2-18(1) Unless an employee is working in accordance with a modified work arrangement or in accordance with an averaging authorization that satisfies the requirements of section 2-20, an employer shall pay the employee overtime for each hour or part of an hour in which the employer requires or permits the employee to work or to be at the employer's disposal for more than:

(a) 40 hours in a week; or

(b) either of:

(i) eight hours in a day if the employer schedules the employee's work in accordance with clause (2)(a); or

(ii) 10 hours in a day if the employer schedules the employee's work in accordance with clause (2)(b).

(2) For the purposes of determining the 40 hour per week maximum pursuant to subsection (1), the employer may require or permit the employee to work or be at the employer's disposal for either:

(a) eight hours in a day for no more than five days in a week; or

- (b) 10 hours in a day for no more than four days in a week.
- (3) Notwithstanding section 2-7 or subsections (1) and (2), in the prescribed circumstances and subject to the prescribed conditions, an employer and an employee may agree that the employee may bank overtime hours.
- (4) Notwithstanding section 2-17, subsection (1) of this section and section 2-19, but subject to subsection (5), an employer shall pay an employee overtime if:
 - (a) the employee works, on average, fewer than 30 hours per week; and
 - (b) the employer requires or permits the employee to work or to be at the employer's disposal for more than eight hours in a day.
- (5) If employees have a union as their bargaining agent and the employer and the union have agreed respecting the number of hours in a day or week that are to be worked before overtime is paid:
 - (a) subsection (4) does not apply to those employees; and
 - (b) the employer shall pay those employees overtime in accordance with the agreement.

2013, c.S-15.1, s.2-18; 2014, c.27, s.3.

Explanation

Subsection (4) is amended to remove the restriction on part-time workers from participating in a modified work arrangement.

9 Existing Provision

How wages are paid

2-35(1) An employer shall pay all wages to an employee:

- (a) in Canadian currency;
- (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.

(2) Subject to subsection (3), all wages of an employee must, at the employer's discretion, be:

- (a) paid to the employee during the employee's working hours;
- (b) delivered to the employee's place of residence;
- (c) sent to the employee by mail in an envelope addressed to the employee's place of residence; or
- (d) deposited into a bank, credit union or trust corporation account of the employee's choice.

(3) If an employee is at the time fixed for payment of the employee's wages absent from the place where the wages are payable, the employer shall immediately send the employee's pay by registered mail to the employee's last address known to the employer.

(4) Any agreement between an employer and employee that allows for payment of wages in any other manner than that set out in subsection (1) is void.

(5) No employer shall issue a cheque in payment of wages that is not honoured.

2013, c.S-15.1, s.2-35.

Explanation

Subsection (1) is amended to clarify that cash is an acceptable method of payment of wages.

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Existing Provision

Deductions and special clothing

2-36(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:

- (a) make any deductions from the wages that would be otherwise payable to the employee;
- (b) require that any portion of the wages be spent in a particular manner; or
- (c) require an employee to return to the employer the whole or any part of any wages paid.

(2) In addition to deductions permitted or required pursuant to law, an employer may deduct 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; and
- (g) deductions for purposes or categories of purposes that are specified pursuant to subsection (3).

(3) For the purposes of clause (2)(g), the Lieutenant Governor in Council may specify purposes and categories of purposes by regulation or by special order in a particular case.

(4) No employer shall require an employee to purchase special clothing that identifies the employer's establishment.

(5) An employer who requires an employee to wear a special article of clothing that identifies the employer's establishment shall provide that special article of clothing free of cost to the employee.

2013, c.S-15.1, s.2-36.

Explanation

Subsection (2) is amended to allow employers to deduct for wage advances, voluntary training that the employee was not required to obtain, and housing or moving allowances provided with the consent of the employee.

11 Existing Provision

None

Explanation

A new section 2-36.1 is added which restricts employers from withholding or deducting gratuities from their employees, except as permitted or required by law or to facilitate a pooling arrangement between employees.

12 Existing Provision

Protection of employees for illness or injury

2-40(1) Subject to subsections (2) to (4.1), 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) 12 weeks in a period of 52 weeks, in the case of serious illness or injury; 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) 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.

(4) The period of absence permitted pursuant to subclause (2)(b)(ii) must be extended to 26 weeks in a period of 52 weeks if the employee is receiving compensation pursuant to *The Workers' Compensation Act, 1979*.

(4.1) If the absence due to the illness or injury of an employee is the result of a public health emergency, the employee is exempt from the requirements of clauses (2) (a) and (c).

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

2013, c.S-15.1, s.2-40; 2018, c 35, s.2; 2020, c 14, s.4.

Explanation

Clause (2)(b) is amended to protect employees from discriminatory action because of absence due to serious illness or injury for up to 27 weeks in a period of 52 weeks, in alignment with the maximum duration of federal *Employment Insurance* benefits.

Subsection (3) is added to restrict when an employer can request a medical certificate from an employee absent due to illness or injury.

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Existing Provision

Employer not to take discriminatory action

2-42(1) In this section, "**lawful authority**" means:

- (a) any police or law enforcement agency with respect to an offence within its power to investigate;
- (b) any person whose duties include the enforcement of this Act, another Act or an Act of the Parliament of Canada with respect to an offence within his or her power to investigate; or
- (c) any person directly or indirectly responsible for supervising an employee.

(2) No employer shall take discriminatory action against an employee because the employee:

- (a) 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

(b) 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) Subsection (2) does not apply if the actions of an employee are frivolous or vexatious.

2013, c.S-15.1, s.2-42.

Explanation

Sections 2-8 and 2-42, which both focus on discriminatory action, have been consolidated into one section for improved clarity. The language of these sections remains unchanged.

14 Existing Provision

Employer to grant employment leave

2-44 No employer shall fail to grant an employee an unpaid employment leave when required to do so by this Subdivision and Subdivision 11.

2013, c.S-15.1, s.2-44.

Explanation

Housekeeping – the word “unpaid” is removed as there is a paid component to the interpersonal violence and sexual violence leave in section 2-56.1.

15 Existing Provision

Maternity leave

2-49(1) Subject to subsections (2) and (7), an employee who is pregnant is entitled to a maternity leave of 19 weeks commencing at any time during the period of 13 weeks preceding the estimated date of birth, and no later than the date of birth.

(2) If the actual date of birth is later than the estimated date of birth, the employee is entitled to not less than six weeks' leave after the actual date of birth.

(3) An employee may extend the leave for a further period of six weeks if the employee is unable for medical reasons to return to work after the expiration of the maternity leave.

(4) An employer shall modify an employee's duties or reassign the employee to other duties, without a decrease in wages or benefits, to accommodate a pregnancy if:

(a) the employee's duties or pregnancy would be unreasonably interfered with; and

(b) it is reasonably practicable to do so.

(5) An employer may require an employee to commence maternity leave not more than 13 weeks before the estimated date of birth if:

(a) the pregnancy of the employee would unreasonably interfere with the performance of the employee's duties; and

(b) no opportunity exists to modify the employee's duties or to reassign the employee to other duties.

(6) An employee whose pregnancy terminates on a date not more than 13 weeks before the estimated date of birth due to a miscarriage or a stillbirth may take a leave pursuant to this section.

(7) An employer shall grant a maternity leave in accordance with subsection (8) to an employee who:

(a) has failed to comply with clause 2-46(1)(a) but is otherwise entitled to maternity leave; and

(b) has not provided her employer with a certificate of a duly qualified medical practitioner certifying that there are bona fide medical reasons that require the employee to cease work immediately.

(8) Subject to subsection (2), the maternity leave to which an employee is entitled pursuant to subsection (7) is to consist of a period not exceeding 15 weeks commencing at any time during the period of nine weeks preceding the estimated date of birth.

2013, c.S-15.1, s.2-49; 2019, c 20, s.6.

Explanation

Subsection (6) has been amended to allow employees experiencing a loss of pregnancy to access maternity leave if the loss of pregnancy occurs up to 20 weeks before the estimated date of birth, instead of 13 weeks.

16 Existing Provision

Bereavement and compassionate care leave

2-55(1) An employee is entitled to a bereavement leave of five days in the case of the death of a member of the employee's immediate family.

(2) The leave mentioned in subsection (1) must be taken within the period commencing one week before and ending one week after the funeral relating to the death with respect to which the leave is granted.

2013, c.S-15.1, s.2-55.

Explanation

Clause (1)(a) is established to provide the regulation-making authority to prescribe other individuals for whom an employee can access bereavement leave, in addition to immediate family members.

Clause (1)(b) is established to allow employees to access bereavement leave in the case of a loss of pregnancy of the employee, the employee's family member or if the employee would have been a parent to a child born because of the pregnancy.

Subsection (2) is amended to allow bereavement leave to be accessed within six months after the death.

17 Existing Provision

Interpersonal violence and sexual violence leave

2-56.1(1) In this section:

(a) **"interpersonal violence"** means interpersonal violence as defined in *The Victims of Interpersonal Violence Act*;

(b) **"victim"** means:

(i) an employee;

(ii) a child of an employee;

(iii) a person for whom an employee is a caregiver, regardless of whether the person and the employee have lived together at any time.

(2) An employee is entitled to a leave of up to 10 days in a period of 52 weeks, which the employee may choose to take intermittently or in one continuous period, if a victim is subjected:

(a) to interpersonal violence by:

(i) a person who has been or who is in a family relationship, spousal relationship, intimate relationship or dating relationship with the employee, regardless of whether they have lived together at any time;

(ii) a person who is the parent of one or more children with the employee, regardless of their marital status or whether they have lived together at any time;

(iii) a person who is in an ongoing caregiving relationship with the employee, regardless of whether they have lived together at any time;
or

(iv) any other prescribed person; or

(b) to sexual violence.

(3) Leave pursuant to this section may be taken for one or more of the following purposes:

(a) to seek medical attention for a victim with respect to a physical or psychological injury or disability caused by interpersonal violence or sexual violence;

(b) to obtain services from a victim services organization;

(c) to obtain psychological or other professional counselling;

(d) to relocate temporarily or permanently;

(e) to seek legal or law enforcement assistance, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the interpersonal violence or sexual violence;

(f) any other prescribed purpose.

(4) For the purposes of calculating when an employee's period of leave has been fully used in accordance with this section, only the periods during which the employee is on leave are to be used in making the calculation and not the periods

during which the employee has returned to work.

(5) An employer must:

(a) maintain confidentiality respecting all matters that come to the employer's knowledge in relation to leave taken by an employee pursuant to this section; and

(b) not disclose information relating to the leave to any person except:

(i) employees or agents of the employer who require the information to carry out their duties; or

(ii) with the consent of the employee to whom the leave relates.

(6) A person to whom information is disclosed pursuant to clause (5)(b) must not disclose it to any other person unless it is to be used for the purpose for which it was originally disclosed or for a different purpose authorized by that clause.

(7) If the employer so requires, the employee shall provide written evidence issued by one of the persons identified in subsection 12.4(4) of *The Victims of Interpersonal Violence Act* to verify the circumstances of the leave.

(8) Subject to subsection (2), an employee is entitled pursuant to this section to:

(a) paid leave for a maximum of 5 days in each period of 52 weeks at a rate equal to:

(i) the wage the employee would have been paid had the employee worked regular hours on the first day of the leave; or

(ii) 5% of the employee's total wages, not including overtime, in the four weeks preceding the first day of the leave if:

(A) the number of hours worked by the employee in a normal workday varies from day to day; or

(B) the employee's wage for regular hours of work varies from day to day; and

(b) unpaid leave for a maximum of a further 5 days in each period of 52 weeks.

(1) **Explanation**

Housekeeping - subsection (2) is amended to accommodate the long-term leave introduced in subsection (3.1).

(2) **Explanation**

A new subsection (3.1) is added to establish a new long-term interpersonal violence and sexual violence leave in addition to the existing short-term leave. Employees eligible for leave under this section will be able to access a new of up to 16 weeks, which must be taken in one continuous period.

(3) **Explanation**

Housekeeping – subsection (8) is amended to accommodate the long-term leave introduced in subsection (3.1).

18 **Existing Provision**

Public Health Emergency leave

2-59.1(1) In this section, ‘**chief medical health officer**’ means the person designated as chief medical health officer pursuant to *The Public Health Act, 1994*.

(2) This section applies if either:

(a) a public health emergency has been determined by the World Health Organization and the chief medical health officer has issued an order declaring:

(i) that the public health emergency applies to Saskatchewan; and

(ii) that individuals in Saskatchewan must take measures to prevent or reduce the spread of disease, including isolating themselves from other individuals; or

(b) the chief medical health officer issues an order declaring that, in the opinion of the chief medical health officer, a disease present in Saskatchewan is sufficiently harmful to the public health that individuals in Saskatchewan must take measures to prevent or reduce the spread of disease, including isolating themselves from other individuals.

(3) If the chief medical health officer determines that the measures set out in an order issued pursuant to subsection (2) are no longer necessary, the chief medical health officer may issue an order terminating the order made pursuant to subsection (2).

(4) If the chief medical health officer has issued an order pursuant to subsection (2) or (3):

(a) the chief medical health officer shall immediately provide a copy of the order to the minister; and

(b) the minister shall cause the order:

(i) to be printed in the Gazette; and

(ii) to be published in any manner the minister considers necessary to bring the order to the attention of the public, including publishing it on the ministry's website.

(5) An employee is entitled to a public health emergency leave for the period during which an order of the chief medical health officer issued pursuant to subsection (2) is in force if:

(a) any of the following have directed employees to isolate themselves to prevent or reduce the spread of the disease that is the subject of the order:

(i) the employer of the employees;

(ii) a duly qualified medical practitioner;

(iii) the Government of Saskatchewan;

(iv) the chief medical health officer; or

(b) the employee is required to provide to care and support to the employee's child family member who is affected by a direction or order of the Government of Saskatchewan or an order of the chief medical health officer.

(6) Employees are entitled to be paid their regular wages and are entitled to their regular benefits during the period mentioned in subsection (5) if:

(a) they are authorized by their employer to work at home during that period;

- (b) they comply with the measures set out in the order of the chief medical health officer; and
 - (c) they comply with any additional requirements set out in an order made pursuant to subsection (7).
- (7) Notwithstanding any other provision of this Part or the regulations or any other Act or law, the Lieutenant Governor in Council may make orders for the purposes of this section, to continue through all or any part of the period mentioned in subsection (5):
- (a) suspending the application of any provision of this Part or the regulations that deals with matters regulated by this section;
 - (b) amending, suspending or varying the application of any provision of this Part or the regulations to employees and employers to whom this section applies;
 - (c) setting out requirements for the purposes of subsection (6);
 - (d) respecting any additional matter or thing that the Lieutenant Governor in Council considers necessary to facilitate the purpose of this section, the protection of employees or the prevention or reduction of disease.
- (8) The minister shall cause each order made pursuant to subsection (7):
- (a) to be printed in the Gazette; and
 - (b) to be published in any manner the minister considers necessary to bring the order to the attention of the public including publishing it on the ministry's website.
- (9) A failure by the minister to give the notice required by subsection (4) or (8) does not, by itself, invalidate an order made pursuant to that subsection.
- (10) Sections 2-43 and 2-47 do not apply to an employee covered by this section.

2020, c 14, s.7.

Explanation

Housekeeping – clause (5)(b) amended to improve clarity and ease of reading.

Existing Provision**Payments in case of layoffs or terminations**

2-61(1) If an employer lays off or terminates the employment of an employee, the employer shall pay to the employee, with respect to the period of the notice required pursuant to section 2-60:

(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; and

(ii) a sum equivalent to the employee's normal wages for that period;
or

(b) if the employer is bound by a collective agreement that applies to the employee, the entitlements provided for in the collective agreement.

(2) For the purposes of subsection (1), if the wages of an employee, not including overtime pay, vary from week to week, the employee's normal wages for one week are deemed to be the equivalent of the employee's average weekly wage, not including overtime pay, for the 13 weeks the employee worked preceding:

(a) the date on which the notice of layoff or termination was given; or

(b) if no notice of the layoff or termination was given:

(i) the date on which the employee was laid off or terminated; or

(ii) a date determined in the prescribed manner.

(3) If an employer lays off or terminates the employment of an employee at a remote site, the employer shall provide transportation without cost for the employee to the nearest point where regularly scheduled transportation services are available.

2013, c.S-15.1, s.2-61.

Explanation

Subsection (1) is amended to clarify that employers do not have to provide vacation pay for the notice period, when providing pay-in-lieu of notice.

20 **Existing Provision**

Notice of group termination

2-62(1) In addition to the requirements of section 2-60 but subject to subsection (3), an employer who intends to terminate the employment of 10 or more employees in a workplace within any four-week period shall give written notice of that intention, in accordance with subsection (2), to each of the following:

- (a) the minister;
- (b) each employee whose employment will be terminated;
- (c) if applicable, a union that is the bargaining agent of any employees whose employment will be terminated.

(2) The written notice required pursuant to subsection (1):

- (a) must specify:
 - (i) the number of employees whose employment will be terminated;
 - (ii) the effective date or dates of their terminations; and
 - (iii) the reasons for the terminations; and
- (b) must be given within the prescribed period.

(3) The notice required pursuant to subsection (1) may be given concurrently with the notice required pursuant to section 2-60.

2013, c.S-15.1, s.2-62.

Explanation

Subsection (1) is amended to change the threshold required for a notice of group termination from 10 employees to 25 employees.

21 **Existing Provision**

DIVISION 5
Wage Assessments, Appeals, Certificates, Collections

Explanation

The title for the division is amended to include referrals to the director of employment standards, which are provided for in the new section 2-73.2.

22

Existing Provision

None

Explanation

A new section 2-73.1 is added which contains definitions for “adjudicator” and “person who is directly affected by a decision” for the purposes of this division.

A new section 2-73.2 is added which provides the director of employment standards with the authority to order employers to cease discriminatory action, reinstate employees, pay lost wages and remove reprimands from employment records if an employer took discriminatory action against an employee. This section mirrors the authority provided to the director of occupational health and safety in Part III.

A new section 2-73.3 is added which allows a person affected by the decision of the director of employment standards in section 2-73.2 to appeal that decision to an adjudicator.

A new section 2-73.4 is added which ensures that the decision made by the section 2-73.2 remains in effect during the appeal process unless decided otherwise by the director of employment standards or an adjudicator.

Existing Provision

Wage assessments

2-74(1) In this Division, “**adjudicator**” means an adjudicator selected pursuant to subsection 4-3(3).

(2) 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 (3), a corporate director.

(3) 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.

(4) **Repealed.** 2020, c 12, s.5.

(5) **Repealed.** 2020, c 12, s.5.

(6) If the director of employment standards has issued a wage assessment pursuant to subsection (2), 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.

(7) 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.

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

2013, c.S-15.1, s.2-74; 2016 c 17 s 4; 2020, c 12, s.5.

Explanation

Subsection (1) is repealed as it has been incorporated into the new section 2-73.1.

Existing Provision**Commencement of appeal to adjudicator**

2-75(1) Any of the following may appeal a wage assessment:

(a) an employer or corporate director who disputes liability or the amount set out in the wage assessment;

(b) an employee who disputes the amount set out in the wage assessment.

(2) An appeal pursuant to this section must be commenced by filing a written notice of appeal with the director of employment standards within 15 business days after the date of service of a wage assessment.

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

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

(b) set out the relief requested.

(4) If the appellant is an employer or a corporate director, the employer or corporate director shall, as a condition of being eligible to appeal the wage assessment, deposit with the director of employment standards the amount set out in the wage assessment or any other prescribed amount.

(5) The amount mentioned in subsection (4) must be deposited before the expiry of the period during which an appeal may be commenced.

(6) Subsections (4) and (5) do not apply if moneys that meet the amount of the wage assessment or the prescribed amount have been paid to the director of employment standards pursuant to a demand mentioned in section 2-70.

(7) An appeal filed pursuant to subsection (2) is to be heard by an adjudicator in accordance with Part IV.

(8) On receipt of the notice of appeal and deposit required pursuant to subsection (4), the director of employment standards shall forward to the adjudicator:

(a) a copy of the wage assessment; and

(b) a copy of the written notice of appeal.

(9) The copy of the wage assessment provided to the adjudicator in accordance with subsection (8) is proof, in the absence of evidence to the contrary, that the amount stated in the wage assessment is due and owing, without proof of the signature or official position of the person appearing to have signed the wage assessment.

(10) On the final determination of an appeal, the amount deposited pursuant to subsection (4):

(a) must be returned if the employer or corporate director is found not to be liable for the wages; or

(b) must be applied to the wage claims of the employees if the determination is in favour of the employees in whole or in part and, if there is any part of the amount remaining after being applied to those wage claims, the remaining amount must be returned to the employer or corporate director.

2013, c.S-15.1, s.2-75.

(1) Explanation

Housekeeping – wording in subsection (2) has been changed to improve clarify and ensure consistency across the legislation.

(2) Explanation

Housekeeping – wording in subsection (3) has been changed to improve clarify and ensure consistency across the legislation.

(3) Explanation

Housekeeping – wording in subsection (7) has been changed to improve clarify and ensure consistency across the legislation.

(4) Explanation

A new subsection (11) is established which authorizes appellants to withdraw an appeal filed under this section.

24 **Existing Provision**

Hearings for certain claims

2-76(1) In this section, “**proceeding**” includes a proceeding authorized by another Act, a civil proceeding or a grievance under a collective agreement.

(2) This section applies to a complaint by an employee that an employer has:

(a) failed to comply with the obligation to pay equal pay in accordance with section 2-21; or

(b) acted contrary to section 2-42.

(3) On receipt of a complaint pursuant to subsection (2), the director of employment standards may assign an employment standards officer to investigate the complaint.

(4) If the employment standards officer assigned pursuant to subsection (3) advises the director of employment standards that there is merit to the complaint, the director may:

(a) attempt to resolve the complaint; or

(b) refer the complaint to an adjudicator to be heard in accordance with Part IV.

(5) Notwithstanding subsection (3), the director of employment standards may refuse to investigate or deal with a complaint if the director is of the opinion that, having regard to all the circumstances of the complaint, a hearing of the complaint is not warranted.

(6) The director of employment standards may, at any time after a complaint is made, 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.

(7) Notwithstanding any other provision of this Part or Part IV, there is no appeal of a decision of the director of employment standards taken pursuant to subsection (5) or (6).

2013, c.S-15.1, s.2-76.

(1) Explanation

Subsection (2) is amended to remove the reference to section 2-42. This reference is no longer necessary as the new section 2-73.2 outlines the process for complaints filed under section 2-42.

(2) Explanation

A new subsection (8) is established which allows complaints filed under 2-42 before this legislation is in force to be resolved in accordance with the new section 2-73.2.

25 Existing Provision

Director has standing as representative of employees

2-87(1) The director of employment standards:

(a) has standing to make a representation on behalf of the Government of Saskatchewan or to represent any or all employees of an employer:

(i) in proceedings respecting an appeal of a wage assessment or a hearing mentioned in sections 2-75 and 2-76 before an adjudicator, the board or a court;

(ii) in proceedings pursuant to any other Act or any Act of the Parliament of Canada with respect to claims for unpaid wages; and

(b) may apply to a court to intervene in proceedings involving claims by or against employees, if in the opinion of the director the proceedings raise an issue of general importance to the rights and responsibilities of employers or employees.

(2) Subsection (1) does not require the director of employment standards to represent employees in any proceedings.

(3) In exercising the power set out in subsection (1), the director of employment standards shall act in a reasonable manner.

2013, c.S-15.1, s.2-87 2019, c 20, s.10.

Explanation

Housekeeping – subclause (1)(a)(i) is amended to include a reference to the new section 2-73.3.

26 Existing Provision

Offences

2-95(1) No person shall:

- (a) in the case of an employer:
 - (i) fail to pay an employee:
 - (A) the wages owing to the employee in the time and manner required pursuant to this Part, the regulations made pursuant to this Part or any authorization issued pursuant to this Part; or
 - (B) the total wages to which the employee is entitled in accordance with the employee's contract of employment or with a collective agreement that applies to the employee;
 - (ii) take discriminatory action against an employee for any reason prohibited by this Part;
 - (iii) make a deduction from wages that is not authorized or allowed by this Part or the regulations made pursuant to this Part;
 - (iv) fail to keep true and accurate records as required pursuant to this Part or the regulations made pursuant to this Part;
 - (v) fail to provide a statement of earnings to an employee that satisfies the requirements of this Part or the regulations made pursuant to this Part; or
 - (vi) fail to provide records in the time and manner required by an employment standards officer;
- (b) intentionally delay or obstruct the director of employment standards or an employment standards officer in the exercise of his or her powers or the performance of his or her duties;
- (c) fail to reasonably cooperate with the director of employment standards or an employment standards officer in the exercise of his or her powers or

the performance of his or her duties;

(d) fail to comply with any provision of this Part, any regulations made pursuant to this Part or any authorization issued pursuant to this Part.

(2) Every person who contravenes a provision of subsection (1) is guilty of an offence and liable on summary conviction:

(a) subject to clause (b), to a fine of not more than \$10,000; and

(b) in the case of an offence that is committed within six years after the person is convicted of any offence:

(i) to a fine of not more than \$25,000 for a second offence; and

(ii) to a fine of not more than \$50,000 for a third or subsequent offence.

2013, c.S-15.1, s.2-95.

Explanation

Clause (1)(d) is amended to make it an offence to fail to comply with a decision made by the director of employment standards, such as an order to cease discriminatory action or reinstate an employee.

27

Existing Provision

Order to pay wages or deliver records and information

2-96(1) Subject to subsection (3), if a person is convicted of an offence respecting the failure to pay wages, the convicting court may, in addition to any fine imposed by the court, order the person to pay the unpaid employee the amount of the wages to which the employee is entitled:

(a) immediately; or

(b) on those terms and conditions that the court directs.

(2) If an employer is convicted of an offence for failing to keep or deliver up for inspection any records or information as required or directed, the convicting judge may, in addition to any fine imposed, order the employer to immediately prepare and deliver to the director of employment standards those records or that information.

(3) The convicting court may reduce the amount of an award pursuant to this section by an amount that the convicting court is satisfied that the employee earned or should have earned during the period when the employer or corporate director was required to pay the employee the wages.

(4) The employer or corporate director has the onus of establishing the amount by which an award should be reduced in accordance with subsection (3).

2013, c.S-15.1, s.2-96.

(1) Explanation

Housekeeping – the reference to subsection (3) is removed as the subsection is being repealed.

(2) Explanation

Housekeeping – subsections (3) and (4) are repealed as the authority provided for in these subsections was repealed in 2020.

28 Existing Provision

Additional powers of convicting court

2-97(1) If an employer is convicted of failure to grant an employment leave or of failure to reinstate an employee in his or her former employment after the employment leave, the convicting court may, in addition to any other penalty imposed for the offence, order the employer:

(a) if the conviction is for failure to grant an employment leave, to immediately grant to the employee the leave that the employer ought to have granted; or

(b) if the conviction is for failing to reinstate an employee in his or her former employment after the employee has been granted employment leave:

(i) to reinstate the employee in his or her former employment under the same terms and conditions in which he or she was formerly employed; and

(ii) to pay to the employee his or her wages retroactive to the date that the convicting judge determines that the employee ought to have been reinstated in his or her former employment pursuant to this Part.

(2) If an employer is convicted of failure to modify duties or reassign an employee because of the employee's disability or pregnancy, the convicting court may, in addition to any other penalty imposed for the offence, order the employer to reassign the employee to other duties or to modify the employee's duties so as to accommodate the employee's disability or pregnancy in a reasonable manner.

(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) to reinstate the employee in the former employment under the same terms and conditions in which the employee was formerly employed;

(b) to pay to the employee the wages of the employee retroactive to the date that the discriminatory action was taken against the employee;

(c) to cease the discriminatory action.

2013, c.S-15.1, s.2-97; 2020, c 12, s.6.

Explanation

Subsection (3) is amended to ensure consistency across the legislation.

29

Existing Provision

Regulations for Part

2-99(1) The Lieutenant Governor in Council may make regulations:

(a) exempting any employer or category of employers from any or all of the provisions of this Part, conditionally or unconditionally;

(b) exempting any employee or category of employees from any or all of the provisions of this Part, conditionally or unconditionally;

(c) prescribing the period, if any, during which a regulation made pursuant to clause (a) or (b) applies;

(d) imposing terms and conditions applicable to any employer or employee or category of employers or employees exempted pursuant to clause (a) or (b), including terms and conditions prescribing the number of hours that an employee or category of employees may be required or permitted to work or to be at the disposal of his or her employer without the employer being

required to pay the employee or category of employees additional wages pursuant to Subdivision 3 of Division 2;

(e) for the purposes of clause 2-1(f), prescribing activities;

(f) for the purposes of clause 2-3(1)(a), prescribing provisions of this Part that apply or do not apply to employees, employers or categories of employees or employers;

(g) for the purposes of section 2-16:

(i) prescribing the amount of the minimum wage or prescribing the manner in which the minimum wage is to be determined; and

(ii) prescribing the minimum sum to be paid when an employee reports for duty or prescribing the manner in which that minimum sum is to be determined;

(g.1) subject to any other Act, fixing the minimum age at which employees may be employed in any class of employment;

(g.2) requiring every employer in any class of employment to provide, repair and launder without charge to his or her employee any uniform or special article of wearing apparel that the employer requires the employee to wear;

(g.3) requiring that, if an employer grants a rest period to an employee, the employee shall be deemed to have worked during the whole of the period;

(g.4) fixing the maximum price to be charged to an employee by an employer, or the maximum deduction from the wages of an employee to be made by an employer, for living quarters in circumstances where the employer furnishes permanent or temporary living quarters to an employee:

(i) whether or not the living quarters are self-contained; and

(ii) whether or not the living quarters are in the general possession and custody of the employer;

(g.5) requiring that, if an employee or a member of a class of employees is required or permitted to finish work between the hours of half past twelve o'clock in the morning and seven o'clock in the morning local time, the employer shall provide the employee with free transportation to the employee's place of residence;

- (h) authorizing the director of employment standards to conduct a vote of employees before issuing an authorization pursuant to this Part;
- (i) governing the provision of benefits to eligible employees pursuant to section 2-39;
- (j) prescribing benefit plans for the purposes of subsection 2-48(2);
- (j.1) for the purposes of section 2-56.1:
 - (i) prescribing other persons; and
 - (ii) prescribing purposes for which leave may be taken;
- (k) for the purposes of clause 2-62(2)(b), prescribing the period within which notice of group termination must be given;
- (l) prescribing the amount of money that an appellant must deposit with the director of employment standards for the purposes of subsection 2-75(4);
- (m) for the purposes of section 2-85, prescribing:
 - (i) the amount of fees payable or the manner of determining those fees; and
 - (ii) the time within which the fees must be paid;
- (n) governing and requiring the keeping of records by employers for the purposes of this Part;
- (o) respecting the determination of the cash value of board and lodging received by an employee from his or her employer;
- (p) prescribing any other matter or thing that is required or authorized by this Part to be prescribed in the regulations;
- (q) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Part.

2013, c.S-15.1, s.2-99; 2014, c.27, s.4; 2017, c 31, s.5.

(a) **Explanation**

Clause (1)(e) is amended to provide regulatory-making authority to define who can be considered an employee in addition to the persons already provided for in clause 2-1(f).

(b) **Explanation**

Clauses (1)(h.1) and (1)(h.2) are established which provides regulatory-making authority to define gratuities and establish conditions for pooling arrangements between employees receiving gratuities.

(c) **Explanation**

Clause (1)(j.01) is established which provides regulatory-making authority to prescribe other individuals eligible for bereavement leave aside from immediate family members.

(d) **Explanation**

Clause (1)(k.1) is established which provides regulatory-making authority to prescribe who is and who is not directly affected by a director's decision for the purposes of subsection 2-73.1(1).

30 **Existing Provision**

Transitional

2-100(1) In this section, "**former Act**" means *The Labour Standards Act* as that Act existed on the day before the coming into force of this section.

(2) Subject to subsection (3), any written authorization that was in force pursuant to the former Act remains in force for the period of the authorization or until the director of employment standards amends or cancels the authorization in accordance with section 2-20.

(3) The Lieutenant Governor in Council may make regulations prescribing a maximum period during which an authorization mentioned in subsection (2) continues in force.

(4) An employer who is paying wages with the frequency and in the manner authorized by section 46 of the former Act shall, on or before July 1, 2018, pay wages with the frequency and in the manner required pursuant to this Part.

2013, c.S-15.1, s.2-100.

Explanation

The division is repealed as it is no longer necessary. There are no active authorizations issued under the former Act.

31 Existing Provision

Procedures on appeals

4-4(1) After selecting an adjudicator pursuant to section 4-3 and in accordance with any regulations made pursuant to this Part, the registrar shall:

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

(b) give written notice of the time, day and place for the appeal or the hearing to:

(i) in the case of an appeal or hearing pursuant to Part II:

(A) the director of employment standards;

(B) the employer;

(C) each employee listed in the wage assessment or hearing notice; and

(D) if a claim is made against any corporate directors, those corporate directors;

(ii) in the case of an appeal or hearing pursuant to Part III:

(A) the director of occupational health and safety; and

(B) all persons who are directly affected by the decision being appealed; and

(iii) in the case of an appeal or hearing pursuant to Part V:

(A) the director of occupational health and safety; and

(B) all persons who are directly affected by the decision being appealed.

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

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

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

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

(6) Notwithstanding that a person who is directly affected by an appeal or a hearing is neither present nor represented, if notice of the appeal or hearing has been given to the person pursuant to subsection (1), the adjudicator may proceed with the appeal or the hearing and make any decision as if that person were present.

(7) *The Arbitration Act, 1992* does not apply to adjudications conducted pursuant to this Part.

2013, c.S-15.1, s.4-4; 2016 c 17 s 6; 2020, c 12, s.11.

Explanation

Housekeeping – clause (1)(b) is amended to ensure consistency between Part IV and the new provisions in Part II relating to appeals and hearings.

32

Existing Provision

Decision of adjudicator

4-6(1) Subject to subsections (4) and (5), the adjudicator shall:

(a) do one of the following:

(i) dismiss the appeal;

(ii) allow the appeal;

(iii) vary the decision being appealed; and

(b) provide written reasons for the decision to the board, the director of employment standards or the director of occupational health and safety, as the case may be, and any other party to the appeal.

(2) **Repealed.** 2020, c 12, s.12.

(3) **Repealed.** 2020, c 12, s.12.

(4) If, after conducting a hearing concerned with section 2-21, the adjudicator concludes that the employer has breached section 2-21, the adjudicator may exercise the powers given to the Court of Queen's Bench pursuant to sections 38 to 41 of *The Saskatchewan Human Rights Code, 2018* and those sections apply, with any necessary modification, to the adjudicator and the hearing.

(5) If, after conducting a hearing concerned with section 2-42, the adjudicator concludes that the employer has breached section 2-42, the adjudicator may issue an order requiring the employer to do any or all of the following:

(a) to comply with section 2-42;

(b) to pay any wages that the employee has lost as a result of the employer's failure to comply with section 2-42;

(c) to restore the employee to his or her former position;

(d) to post the order in the workplace;

(e) to do any other thing that the adjudicator considers reasonable and necessary in the circumstances.

2013, c.S-15.1, s.4-6; 2018, c 35, s.2; 2020, c 12, s.12.

Explanation

Housekeeping - subsection (5) is repealed as the new sections 2-73.2 and 2-73.3 govern the process surrounding hearings related to section 2-42.

Existing Provision**Right to appeal adjudicator's decision to board**

4-8(1) An employer, employee or corporate director who is directly affected by a decision of an adjudicator on an appeal or hearing pursuant to Part II may appeal the decision to the board on a question of law.

(2) A person who is directly affected by a decision of an adjudicator on an appeal pursuant to Part III or Part V may appeal the decision to the board on a question of law.

(3) A person who intends to appeal pursuant to this section shall:

(a) file a notice of appeal with the board within 15 business days after the date of service of the decision of the adjudicator; and

(b) serve the notice of appeal on all parties to the appeal.

(4) The record of an appeal is to consist of the following:

(a) in the case of an appeal or hearing pursuant to Part II, the wage assessment or the notice of hearing;

(b) in the case of an appeal pursuant to Part III, any written decision of an occupational health officer or the director of occupational health and safety respecting the matter that is the subject of the appeal;

(b.1) in the case of an appeal pursuant to Part V, any written decision of a radiation health officer or the director of occupational health and safety, respecting the matter that is the subject of the appeal;

(c) the notice of appeal filed with the director of employment standards pursuant to Part II or with the director of occupational health and safety pursuant to Part III or Part V, as the case may be;

(d) any exhibits filed before the adjudicator;

(e) the written decision of the adjudicator;

(f) the notice of appeal to the board;

(g) any other material that the board may require to properly consider the appeal.

(5) The commencement of an appeal pursuant to this section does not stay the effect of the decision or order being appealed unless the board orders otherwise.

(6) The board may:

(a) affirm, amend or cancel the decision or order of the adjudicator; or

(b) remit the matter back to the adjudicator for amendment of the adjudicator's decision or order with any directions that the board considers appropriate.

2013, c.S-15.1, s.4-8; 2020, c 12, s.14.

(1) Explanation

Housekeeping - subsection (1) is amended to align with section 2-73.1.

(2) Explanation

Housekeeping – clause (4)(a) is amended as a result of the introduction of sections 2-73.2 and 2-73.3.

34 Existing Provision

Right of director to appeal

4-10(1) The director of employment standards and the director of occupational health and safety have the right:

(a) to appear and make representations on:

(i) any appeal or hearing heard by an adjudicator; and

(ii) any appeal of an adjudicator's decision before the board or the Court of Appeal; and

(b) to appeal any decision of an adjudicator on a question of law or a question of mixed law and fact; and

(c) to appeal any decision of the board on a question of law.

(2) If the director of employment standards or director of occupational health and safety intends to appeal to the board pursuant to this section, that director shall:

- (a) file a notice of appeal with the board within 30 business days after the date of service of the decision of the adjudicator; and
 - (b) serve the notice of appeal on all parties to the appeal.
- (3) The record of an appeal is to consist of the following:
- (a) in the case of an appeal or hearing pursuant to Part II, the wage assessment or the notice of hearing;
 - (b) in the case of an appeal pursuant to Part III, any written decision of an occupational health officer or the director of occupational health and safety respecting the matter that is the subject of the appeal;
 - (c) in the case of an appeal pursuant to Part V, any written decision of a radiation health officer or the director of occupational health and safety respecting the matter that is the subject of the appeal;
 - (d) the notice of appeal filed with the director of employment standards pursuant to Part II or with the director of occupational health and safety pursuant to Part III or V, as the case may be;
 - (e) any exhibits filed before the adjudicator;
 - (f) the written decision of the adjudicator;
 - (g) the notice of appeal to the board;
 - (h) any other material that the board may require to properly consider the appeal.
- (4) The commencement of an appeal to the board does not stay the effect of the decision or order being appealed unless the board orders otherwise.
- (5) On an appeal, the board may:
- (a) affirm, amend or cancel the decision or order of the adjudicator; or
 - (b) remit the matter back to the adjudicator for amendment of the adjudicator's decision or order with any directions that the board considers appropriate.

Explanation

Housekeeping – clause (3)(a) is amended as a result of the introduction of sections 2-73.2 and 2-73.3.

35

Existing Provision

Interpretation of Division

5-23(1) In this Division:

(a) **“adjudicator”** means an adjudicator appointed pursuant to Part IV;

(b) **“decision”** includes:

(i) a decision to grant an exemption;

(ii) a decision to serve, affirm, amend or cancel a notice of contravention or to not issue a notice of contravention; and

(iii) any other determination or action of a radiation health officer that is authorized by this Part.

(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 a radiation health officer is directed and who is directly affected by that decision:

(a) a worker;

(b) an owner;

(c) an operator;

(d) a vendor;

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

but does not include any other prescribed person or any member of a category of prescribed persons.

Explanation

Housekeeping – clause (3)(a) is amended as a result of the introduction of sections 2-73.2 and 2-73.3.

36 **Existing Provision**

Review of Act

9-13(1) The minister shall cause a review to be conducted of the adequacy of this Act and its administration.

(2) For the purposes of subsection (1):

(a) the minister may cause a review of a Part of this Act to be conducted at a different time from the review of another Part;

(b) the first review of at least one Part of this Act must be conducted within five years after the date on which this Act comes into force and a first review of all Parts of this Act must be conducted within 10 years after the date on which this Act comes into force; and

(c) a review of each Part of this Act must be conducted at least once every five years after the completion of the most recent review of that Part.

2013, c.S-15.1, s.9-13.

Explanation

Clause (2)(c) is amended to change the requirement for a review from occurring every five years to every 10 years.

37 **Existing Provision**

None

Explanation

These amendments come into force by order of the Lieutenant Governor in Council.