Labour Standards
Issues Affecting Urban Municipalities

Labour Standards Division Mandate
• All employers and employees have certain rights and responsibilities in the workplace.
• The Labour Standards Division promotes and enforces the basic rules for wages and hours of work in Saskatchewan.

Workshop topics
• Basic rules
• Hours of Work
• Overtime
• Annual Holidays
• Discharges
• Protected Absences
• Maternity, Adoption and Parental Leave
• Duty to Accommodate

Basic labour standards rules
• Contracts can offer more, but not less than the Labour Standards Act
• Employers and employees can seek civil remedies

Minimum wage
• As of December 1, 2012 minimum wage increased from $9.50/hour to $10.00 per hour.
• The minimum payment requirement for reporting for duty was increased to $30.00.
  – Doesn’t apply to school students in regular attendance during the school year, janitors, caretakers or building cleaners

Hours of Work:
Definitions of ‘week’ and ‘day’
• “Week” (Act, Section 2[s])
  – Means the period from Saturday midnight to the following Saturday midnight
• “Day” (Act, Section 5)
  – For overtime, any period of 24 consecutive hours.
Maximum hours (Act, Section 12)
• Employee consent is required for work past 44 hours in a week (36 in the week of a public holiday)
• No discipline for refusing to work more, unless there is an emergency

Definition of ‘emergency’ (Act, sections 12[4] and 13.1[6])
• “Any sudden or unusual occurrence or condition that could not, by the exercise of reasonable judgment, have been foreseen by the employer”

Breaks between periods of work (Act, Section 13.2)
• At least eight consecutive hours of rest in any period of 24 hrs
• Even if employer offers overtime pay
• Unless there is an emergency

Overtime (Section 6)
• Employees are eligible for overtime when they work more than:
  – eight hours in any 24-hour period or
  – 40 hours in a regular week or 32 hours in a week with a public holiday
• Week – Saturday midnight to Saturday midnight (the calendar week).

Examples
• Required to work:
  – directed to work by the employer
• Permitted to work:
  – start work early or work late
  – employer knows, but does not stop
• At the disposal of the employer:
  – attending work-related training
  – required to be available for work during meal breaks
  – waiting for work at the business
**Calculating overtime pay (Act, Section 6[2])**
- O.T. pay is 1.5 times the hourly wage rate
- Hourly rate must be shown on pay stubs
- Employees not paid by the hour must have their pay rate converted
- Managers and professionals are exempt from overtime

**Defining “manager”**
- Carries out authority delegated by the employer
- Supervises and directs subordinates
- Hires, evaluates, promotes, disciplines and fires subordinates, either individually or as part of management team

**Defining “manager”**
- Some independence and discretion in performing duties
- Level of remuneration usually higher than non-managerial staff

**Defining “professionals”**
- Licensed through a statute
- Students learning their professions are included
- Generally those professionals that are governed by a professional association and include: doctors, lawyers, engineers, accountants...

**Averaging of Hours Permit**
- Provides flexibility to employees and employers
- Allows employees to work longer hours without being paid OT in return for more time off
- Averages hours of work over weeks
- Employees (or union) must consent
- Does not eliminate OT – OT is payable if employees work more hours than on permit

**Permit Examples**
- Four 10-hr days/week
- 40-hr/one week (variable hrs each day)
- 80-hr/two weeks (example: 50/30)
- 120-hr/three weeks (example: 50/50/20)
- 160-hr/four weeks
- Monthly
Annual holidays:
Who gets annual holidays?
• All employees are entitled to annual holidays and annual holiday pay
• No matter what hours worked or how paid

Can the employer schedule an employee’s vacation?
• Employers and employees should negotiate vacation schedules
• If no agreement, employer can schedule employee’s vacation by providing a written notice four weeks in advance of the vacation date

Suggestions for providing notice
• Use written notices.
• Make it easy to understand.
• Have a clear termination date.
• Make sure that the employee receives the notice and understands it.

Annual Holiday Pay Entitlements

<table>
<thead>
<tr>
<th>Employment</th>
<th>Vacation</th>
<th>AHP calculation</th>
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</thead>
<tbody>
<tr>
<td>1-10 years</td>
<td>3 weeks</td>
<td>3/52 of total wage (about 6 %)</td>
</tr>
<tr>
<td>10 years and more</td>
<td>4 weeks</td>
<td>4/52 total wage (about 8 %)</td>
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</tbody>
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Calculated on an employee’s ‘total wage’ for a 12-month “year of employment”. Total wage includes OT and wages earned during the year.

Discharges and Lay-offs
Basic rules
• The Act:
  – does not prevent discharges or lay-offs, except in certain situations
  – requires notice or pay in lieu of notice for employees with three months of continuous service - except where “just cause” exists.

Employer notice periods

<table>
<thead>
<tr>
<th>INDIVIDUAL DISCHARGES AND LAY-OFFS</th>
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<tbody>
<tr>
<td>Minimum notice depends on length of service</td>
</tr>
<tr>
<td>Service</td>
</tr>
<tr>
<td>0 – 3 months</td>
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<tr>
<td>3 months – 1 year</td>
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<tr>
<td>1 – 3 years</td>
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Issues affecting RMS 11/02/2013

Seasonal and term employees

- Do not require notice if the end of the contract is clearly specified
- Notice or pay in lieu of notice is required if the employer terminates the contract early
- Amount based on length of service
  - Break in service if a layoff or termination exceeds 14 days
- Seasonal employees do not need notice if contracts are not renewed for next season

Definition of ‘just cause’

- Not defined in the Act
- Courts say that just cause may exist if employee is guilty of serious misconduct, such as theft
- Employer must prove ‘just cause’

Prohibited grounds

- Lay-off or discharge prohibited if employee is protected by:
  - job-protected leaves;
  - ‘whistleblower’ rules; or
  - human rights grounds
- If dispute, employer must show that discharge or lay-off was unrelated

Protected leaves

- Employees are protected during an absence if:
  - the illness or injury does not exceed 12 days in a calendar year;
  - the illness or injury is serious, 12 weeks in a 52 week period;
  - 26 weeks if the employee is on worker’s compensation benefits.

Maternity, Adoption and Parental Leave

- The qualifying period is 20 weeks of employment in the 52 weeks prior to the commencement of the leave.
  - Maternity leave is for a period up to 18 weeks;
  - Adoption leave is for a period up to 18 weeks; and
  - Parental leave is for a period of up to 34 weeks if it is combined with maternity leave or adoption leave, otherwise it is 37 weeks.

Duty to Accommodate

- An employee that becomes disabled must be accommodated where reasonably practicable.
- It is not necessary for the disability to have occurred at work.
- Disability could be a physical or mental disability.
For more information, read...

Questions?

If you need help from LS
- Toll free 1-800-667-1783
- http://www.lnes.gov.sk.ca/labour-standards
- Email lrwsinquiry@gov.sk.ca