

Labour Standards

Issues Affecting Urban Municipalities



Saskatchewan
Ministry of
Labour Relations and
Workplace Safety

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.



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Workshop topics

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



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Basic labour standards rules


- Contracts can offer more, but not less than the Labour Standards Act
- Employers and employees can seek civil remedies



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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




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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.



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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).




Overtime (Section 6)

- Employees must be paid whenever they are:
 - required to work
 - permitted to work
 - at the disposal of the employer




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



Annual Holiday Pay Entitlements


Employment	Vacation	AHP calculation
1-10 years	3 weeks	3/52 of total wage (about 6 %)
10 years and more	4 weeks	4/52 total wage (about 8 %)

Calculated on an employee's 'total wage' for a 12-month "year of employment". Total wage' includes OT and wages earned during the year.



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



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.



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.




Employer notice periods

INDIVIDUAL DISCHARGES AND LAY-OFFS

Minimum notice depends on length of service

Service	Notice	Service	Notice
0 – 3 months▶ 0 weeks	3 – 5 years▶ 4 weeks
3 months – 1 year▶ 1 week	5 – 10 years▶ 6 weeks
1 – 3 years▶ 2 weeks	10 years >▶ 8 weeks



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...

Rights and Responsibilities
A Guide to Labour Standards in Saskatchewan
July 2012

SASKATCHEWAN LABOUR STANDARDS

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Questions?



If you need help from LS

- Toll free 1-800-667-1783
- <http://www.lrws.gov.sk.ca/labour-standards>
- Email lrwsinquiry@gov.sk.ca

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