

Summary Of Proposed Amendments To The Saskatchewan Employment Act



The Government of Saskatchewan has recently announced plans for various amendments to the *Saskatchewan Employment Act* [SEA]. These proposed amendments follow considerable engagement as between the government and stakeholders such as employers and legal counsel practicing in the area. They represent substantive changes to the SEA which are more than mere housekeeping. If enacted, these proposed amendments will impact employment relationships in Saskatchewan in several ways, including:

- Enhanced legislative authority for the Director of Employment Standards, such as the ability to order reinstatement of an employee, or order compensation for lost wages, upon determining that a “discriminatory action” has been taken against an employee by an employer under Part 2 of the SEA.
- A specific statutory prohibition on employers deducting or withholding tips from employees, an amendment designed to protect the earnings of employees. In this regard, a new section 2-36.1 is proposed.
- Further, a new subsection 2-36(2) is proposed, which would permit employers and employees (or their union) to agree to deductions for salary advances, voluntary training, and housing allowances. This demonstrates a “loosening” of the existing 2-36(1) which created significant barriers for employers in recovering certain moneys from employees.
- Likewise, new subsections 2-11(6) and 2-14(1) would allow employers and employees or their unions to negotiate a variation from meal breaks and notice of work schedule change provisions without requiring a permit from the Director of Employment Standards.
- An increase to the threshold for notice of group terminations. At present, the SEA requires notice of group terminations to be provided to the Minister if 10 or more employees are terminated, as well as enhanced notice or pay in lieu of notice for junior employees involved in such group terminations. This threshold number is set to increase to 25.
- Clarification regarding pay-in-lieu of notice, in that an employer will not be required under the SEA to provide vacation pay on a period for which pay-in-lieu is being provided. If an employer is contractually committed to paying vacation pay during such a period, then such pay would still likely be owed. However, this is another example of where the government has provided statutory direction

on an issue which has been unclear in application for years.

- There is new guidance on the circumstances under which employers can request medical notes from employees to justify absences for medical reasons. Amendments to section 2-40 of the SEA will have the effect of limiting the ability of an employer to seek a medical note unless the employee's absence from work is greater than five consecutive days of work, or if the employee has had non-consecutive absences due to illness or injury of 2 or more working days in the prior 12 months.
- The calculation of hours for the purpose of overtime pay may also be impacted by the proposed amendments. Under the proposed amendments, employers will be able to consider a "day" for the purposes of overtime pay as either a single calendar day or any period of 24 hours. Currently, it is only a single calendar day and no such flexibility is provided to employers.
- The new amendments will also extend existing protected leaves related to maternity, illness, interpersonal violence, and bereavement.

Bill 30-5 had its first reading in the Legislature December 4, 2024, and will be monitored by McKercher LLP's Labour and Employment Practice Group as it advances through its readings. A final report on conclusive amendments will be provided once passed by royal assent.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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