Global Employer Handbook Chapter
Saskatchewan

Introduction

Saskatchewan employment law is governed by a combination of *The Saskatchewan Employment Act*, SS 2013, c S-15.1 (the "*SEA*") and the common law. Unlike other Canadian jurisdictions, the *SEA* combines legislation pertaining to employment standards (formerly "labour standards"), labour relations, and other employment-related legislation. The federal government retains jurisdiction in certain circumstances, such as specific works and undertakings with exclusive federal jurisdiction (e.g., shipping, railways and banks). Employers operating within these specific spheres are subject to federal legislation.

This chapter summarizes employment and labour laws relevant to employment in Saskatchewan. The following overview applies to both union and non-union employees unless stated otherwise.

I. Hiring

A. Basics of Entering an Employment Relationship

Canadian common law and legislation presume that employers and employees intend the employment contract to remain in force indefinitely, until brought to an end upon appropriate notice. The presumption that employment contracts are indefinite can be rebutted with evidence that the contract was intended to be a term contract. However, if the employee is allowed to keep working after the purported-term expires, Courts will typically infer that the contract has become indefinite. Where there is 'just cause' to terminate the employment of an employee, the employee is not entitled to notice of termination or pay in lieu of notice. Otherwise, the amount of notice required is dictated both by statute and by common law principles.

Absent a reason for just cause, decisions by an employer to end the employment relationship are understood to be termination without cause. When an employee is terminated without cause they are entitled to "reasonable notice". Such notice can be working notice where the employee remains in the position until a specified date. Or the payment can be provided "in lieu of notice", and typically involves an immediate end date and a lump sum payment that is equivalent to the reasonable notice required in the circumstances.

A departing employee is entitled to notice pursuant to the *SEA*, however, Saskatchewan Courts have determined that employees are also entitled to common law notice which is typically greater than that outlined in the *SEA*.

Common law refers to the principles developed by Courts that determine the appropriate or "reasonable" notice period an employer is required to provide to dismiss an employee

without just cause. Common law notice is distinct from statutory notice; however, generally, common law notice will be greater than statutory notice, and statutory notice is included in the common law notice period.

The length of notice period required (absent a valid term in the employment contract defining its length) depends on various circumstances including the employee's age, length of service, position, availability of similar employment and any other factors that might make obtaining new employment more difficult, having regard to the experience, training and qualifications of the employee and bad faith conduct in the manner of dismissal and recruitment. The onus is on the employee to establish "dismissal." These factors are not exhaustive, and a Court also may consider other matters, such as whether the employee was recruited from another place of employment by the employer and may extend the notice period on that basis if the former position was secure and long-term.

Although there is substantial variation in decisions on this issue, judges have tended to award greater damages to former employees who were in senior-level positions, or, had greater seniority with the employer.

An employee has a duty to mitigate his or her losses by looking for and accepting reasonable alternative employment. Any amounts earned (or that could have been earned had the employee acted reasonably) during the notice period for such work will likely be deducted from the damages payable by the employer. Where an employee receives amounts pursuant to a separate contract (*e.g.* short-term disability insurance paid for by the employee), the Court might decline to deduct the amounts from the award.

Unless terminated with cause, a terminated employee is entitled to the following statutory notice under the *SEA*, depending on how long they have been employed:

Period of Employment	**Notice Period**
more than 13 consecutive weeks but one year or less	one week
more than one year but three years or less	two weeks
more than three years but five years or less	four weeks
more than five years but ten years or less	six weeks
more than ten years	eight weeks

The amount an employer is liable to pay is determined by the amount the employee would have been entitled to if he or she worked during the termination notice period.

An employee who has been employed by the employer for at least 13 consecutive weeks must give the employer written notice of at least two weeks starting the day on which the employee is ending his or her employment.

Parties may enter into contracts of employment that stipulate the period of notice the employer is required to provide to the employee on termination of employment. Provided that the period is not less than the *SEA* minimum, the employer and employee can agree to a notice period, which may be less than the common law reasonable notice requirement. For employers to limit their liability to the statutory minimum notice provisions of the *SEA*, the employment contract must expressly adopt those minimums

and make it clear that no further notice or pay in lieu will be owing upon termination without cause.

B. Discrimination (in the Hiring Process)*

**Discrimination will be discussed in more detail in Heading IV below.*

The *Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, prohibits government actors (at both the provincial and federal levels) from discriminating against individuals. The *Canadian Human Rights Act*, RSC 1985, c H-6 applies to federally regulated employers, and *The Saskatchewan Human Rights Code, 2018*, SS 2018, c S-24.2 (the "*Code*") applies to provincially regulated employers.

The *Code* provides that an employer must not refuse to employ or refuse to continue to employ any person, or discriminate against any person with regard to employment or any term or condition of employment because of religion, creed, marital status, family status, sex, sexual orientation, disability, age, colour, ancestry, nationality, place of origin, race or perceived race, receipt of public assistance, or gender identity.

Based on the foregoing, an employer has obligations to create an inclusive workplace free of discrimination; to promptly investigate allegations of discrimination, while maintaining the privacy of the parties involved; and to provide accommodation up to the point of undue hardship.

Employers have the responsibility to promptly investigate an allegation of discrimination. If such an allegation is substantiated, appropriate action, including disciplinary action, must be taken to stop the discrimination.

An employer's duty is not necessarily limited to the workplace or work hours. It may also extend to discriminatory behaviour during business trips, company parties or other corporate functions.

An employee who alleges discrimination must first establish a *prima facie* case of discrimination. This is done when the employee presents evidence that covers the allegations made and, if believed, is complete and sufficient for a decision in favour of the employee, in the absence of an answer from the employer.

Once a *prima facie* case is established, the onus shifts to the employer to provide a satisfactory explanation demonstrating that either the conduct did not occur as alleged or was non-discriminatory. Conduct may be found non-discriminatory if the employer establishes that it is based on a *bona fide* occupational requirement; in other words, if the employer is able to establish that accommodating the individual's needs would impose an undue hardship.

If the discrimination is believed to be unlawful, a complaint can be made to the Saskatchewan Human Rights Commission, or an action may be commenced on the applicable legislative and common law grounds.

Employers must ensure that all workers (which includes employees, contractors, students and volunteers) and their work environment are free from discrimination, including harassment based on a protected ground under the *SEA*, which largely aligns

with the provisions of the *Code*. Employers are responsible for preventing harassment from occurring in the workplace in the first place and for developing non-discriminatory policies and procedures.

All workplaces are required to have a violence prevention policy in place that will apply to all workers and all incidents of harassment and/or violence (whether they are formally reported or not) that come to the attention of the employer must be investigated.

C. Advertising/Recruitment

Hiring, including recruitment, advertising, and the application process, must align with the provision of the *Code* and must not express a preference or limitation with prohibited grounds.

D. Use of Employment Contracts

The Employer-employee relationship is a contractual relationship, regardless of whether or not a formal employment contract was signed by both parties. As such, the use of an employment agreement assists in clarifying the relationship between the parties.

Employment contracts usually contain a description of the duties expected of the employee, remuneration and other benefits, and matters affecting the termination of the contract, including the length of notice and the reasons for termination. It is important to recognize that parties cannot “contract out” of the protections found in the *Code*. Further, the *SEA* provides minimum rights for employees (any contractual provision giving less is deemed void) but does not limit employees from receiving more than the statutory minimums.

Written employment contracts will be interpreted strictly by the Courts. Generally, they will be upheld unless it can be shown that they were signed under duress or where they are so unfair as to be unconscionable.

Employment agreements may also include restrictive covenants in order to protect sensitive information pertaining to one’s employment. There are no legislative provisions pertaining to restrictive covenants.

Where an employer wishes to introduce employment agreements with existing employees, it must ensure that it offers "consideration" or something of value to the employee in exchange for signing the contract, failing which the employer may be precluded from relying on its contents (including any provision that limits notice of termination).

E. Background Checks/ Employment References

In Saskatchewan, there are no statutory prohibitions against an employer looking at additional information beyond the application materials provided by the prospective employee. For the most part, there is nothing preventing a potential employer for looking at publicly available information (such as social media) provided the employer respects discrimination laws pursuant to the *Code*.

Generally, the appropriateness of background checks will be informed by basic considerations of privacy, with a recognition that requirements such as criminal record checks are more likely to be acceptable where one can demonstrate the link between the position and the need for a criminal record check. Past criminal activity may be checked and/or verified by contacting local police or law enforcement agencies. Still, employers are required by law to have a release form signed by the candidate in order to obtain this information.

Prior to the interview stage, employers may not ask about the applicant's record of offences, including criminal offences for which a pardon has been granted and offences with respect to provincial enactments. However, if, for example, driving is an essential duty, employers may ask at the interview stage whether the applicant has any convictions under *The Traffic Safety Act*, SS 2004, c T-18.1. An employer can refuse to hire someone based on criminal convictions if no pardon has been granted.

Employers can avoid many headaches by conducting a thorough background check on prospective employees. Employers should verify educational background and job histories in detail. It is recommended that every step of the process be documented to create a verifiable paper trail.

Employers who choose to ask for references should understand that they may incur liability if they do not check those references. In cases where it would be reasonably necessary to check an applicant's employment references, and the employer's failure to do so leads to adverse consequences, Courts have held the employer liable for the improper acts of the employee.

II. Compensation

Compensation and benefit requirements arise through a combination of the *SEA*, *The Employment Standards Regulations*, RRS c S-15.1 Reg 5, and other regulations accompanying the *SEA*.

Many categories of workers are exempt from various provisions of the *SEA*.

A. Minimum Wage

The Minimum Wage Regulations, 2014, RRS c s-15.1 Reg 3 establishes a minimum wage for workers in Saskatchewan. The current minimum wage is $13.00 per hour. Employees who do not have to be paid at the minimum wage include farm and ranch labourers, care providers in private homes, babysitters, athletes, volunteers for non-profit organizations, and individuals who have a physical or mental disability and work for a non-profit organization in programs that are educational, therapeutic, or rehabilitative.

Employees who are asked to report for duty (other than for overtime) are entitled to three (3) hours at their wage regardless of whether or not the employee works for the full three hours. This does not apply to students in high school, school bus drivers, or noon hour supervisors employed by a school board.

B. Wage Payments & Deductions

For the most part, employers have some flexibility regarding pay periods, as payment may take place monthly, semi-monthly, or every fourteen (14) days. However, monthly payments are only entitled where payment has been described as a monthly salary or a salary described as for a period longer than a month (presumably in a letter of offer or employment agreement).

Wages must be paid in cash, by cheque, or by direct deposit on a regular payday. When wages are paid, an employer must furnish an employee with a statement, in writing or electronically, setting out the period of time or the work for which the wages are paid, the wage rate, the amount, and deductions. Where an employer has not kept accurate records, an employment standards officer may determine the regular rate of pay and the number of hours worked by an employee in each day and week.

Although employers are primarily responsible for payments under the *SEA*, a company's directors are jointly and severally liable for up to six (6) months of wages, holiday pay, and accrued vacation pay.

C. Minimum Age/Child Labour

In Saskatchewan, the minimum age of employment is sixteen (16) years of age. Fourteen- (14) and fifteen- (15) year-olds can work if they have both the written permission of one of their parents or guardians and a Certificate of Completion from the Young Workers Readiness Certificate Course.

Fourteen- (14) and fifteen- (15) year-olds cannot work more than sixteen (16) hours a week in which school is in session, after 10:00 pm on a day preceding a school day, before classes begin on a school day, or during the hours that the employee attends school. These restrictions do not apply during school holidays and extended breaks from school. Young persons are also limited from performing certain jobs.

D. Overtime Requirements

Under the *SEA*, employees may work five (5), eight-hour days in a week, or four (4), ten-hour days in a week. It is not open to an employer to retroactively decide which approach applied, as schedules are required to be disclosed in advance. Further, an employee cannot be required to work more than forty-four (44) hours in a week. Employees are entitled to one and one half (1.5) times their hourly wage for every hour worked in excess of forty (40) hours in a week or in excess of daily hours of their scheduled daily hours (eight or ten).

Exemptions from overtime apply to some groups of employees, such as professional and managerial employees, employees primarily engaged in mineral exploration, logging industry employees, certain travelling salespersons, motor vehicle salespersons, persons employed by rural municipalities in connection with road construction, employees working for outfitters, fishers or trappers, come-in care providers working in private homes. Special overtime rules apply to some types of employees, including live-in care providers, live-in domestics, ambulance attendants, firefighters on a platoon

system, oil truck drivers, automobile service stations, some hog barn workers and some city newspaper employees.

Employers can also apply to the Government to receive a modified work arrangement or averaging of hours permit, which affect overtime rules.

All employees who are eligible for overtime can request an overtime bank, which takes effect when an employee and employer sign an agreement in writing. All banked hours are withdrawn from the bank as regular hours worked at the employee's current hourly wage.

E. Benefits/Health Insurance

Saskatchewan residents are eligible for provincially funded health care. As a result, employers are not required to provide their employees with health insurance coverage. Employers may offer additional health-related benefits that are not covered by the public system, such as dental coverage. There is little regulation of such benefits, though it is worth noting that in some situations an employer who offers benefits to full-time employees must offer benefits to part-time employees as well.

III. Time Off/Leaves of Absence

A. Paid Time Off

- Vacation Pay

Every employee is entitled to vacation time, and vacation pay after the employee has worked one (1) year for the employer. Employees receive a minimum of three (3) weeks of vacation. Employees who complete ten (10) years of work with the same employer receive a minimum of four (4) weeks of vacation.

Vacation pay is calculated on the employee's wages for a given twelve (12) month period, including all salary, overtime, vacation pay, public holiday pay and earned bonuses. The vacation pay calculation depends on how many years the employee has worked for the same employer—that is, during the first nine (9) years multiply the wages for the twelve (12) month period by 5.77% and during year ten (10) and following, multiply the wages for the twelve (12) month period by 7.69%.

An employee is entitled to take their vacation in one continuous period. Employees and employers should negotiate when annual vacation pay is to be taken, but if no agreement is reached, the employer can schedule the vacation by giving the employee four (4) weeks' written notice.

- Sick Leave Pay

Employers are not required to pay employees who are away sick. However, employers and employees may agree to paid sick leave. Workplace injuries are an exception to this, as discussed further herein. While an employer is not required to offer paid sick

leave, there are restrictions under employment standards and human rights legislation on terminating employees away from work due to illness.

- Holiday Pay

Employees in Saskatchewan are entitled to time off with pay for each of the following statutory holidays: New Year's Day, Family Day, Good Friday, Victoria Day, Canada Day, Saskatchewan Day, Labour Day, Thanksgiving Day, Remembrance Day, and Christmas Day.

For each statutory holiday, an employer will pay the employee 5% of the employee's wages, not including overtime pay, earned in the four (4) weeks preceding the public holiday. If an employee works on a public holiday, the employer must pay the employee the amount stated above and one and one half (1.5) times the employee's hourly wage.

- Interpersonal Violence and Sexual Violence Leave Pay

An employee is entitled to a leave of up to ten (10) days in a period of fifty-two (52) weeks if either a victim is subjected to sexual violence by anyone or a victim is subjected to interpersonal violence by a person who has been in a family, spousal, intimate, or dating relationship with the employee; a person who is the parent of one or more children with the employee; a person who is in an ongoing relationship with the employee; or any other prescribed person. The employee may choose to take the leave intermittently or in one continuous period, and the employee must be paid for the first five (5) days of the leave in the fifty-two (52) week period, but not for the latter five (5) days.

B. Family and Other Medical Leaves

Protected Leaves Generally

Job-protected leaves under employment standards are unpaid. A full-or part-time employee who is currently employed, and has been employed for more than thirteen (13) consecutive weeks before the day the leave is to begin, qualifies for leave. An employee continues to accrue seniority, service, and rights of recall while on an employment leave or a combination of employment leaves to a maximum of seventy-eight (78) weeks.

After returning from leave, an employee has the same vacation entitlements that the employee would have received if the leave had not been taken. Vacation pay may be lower since it is a percentage of the previous year's earnings.

An employee returning from leave of sixty (60) days or less must be re-employed in the same job they had before the leave. An employee returning from a leave longer than sixty (60) days can be reinstated into a comparable job with no loss in pay or benefits.

Generally, employees should give four (4) weeks' notice prior to a leave. However, this does not apply to bereavement leave, compassionate care leave, interpersonal violence and sexual violence leave, critically ill child care leave, critically ill adult care leave,

crime-related child death or disappearance leave, citizenship ceremony leave, or public health emergency leave, or, if the date of commencement of the employment leave or the date of return to work from the employment leave is not known and cannot be reasonably known by the employee.

Organ Donation Leave

An employee is entitled to a leave for organ donation for the period, as certified by a duly certified medical practitioner, required for the organ donation procedure and recovery. The maximum period for this leave is twenty-six (26) weeks.

Bereavement Leave

An employee is entitled to bereavement leave of up to five (5) days in the case of the death of a member of the employee's immediate family. Immediate family includes an employee's spouse or common-law partner, parent, grandparent, child, grandchild, sibling, sibling's spouse or common-law partner, or an employee's spouse's or common-law partner's parent, grandparent, child, grandchild, sibling, or sibling's spouse or common-law partner. Bereavement leave must be taken within the period commencing one (1) week before and ending one (1) week after the immediate family member's funeral.

Compassionate Care Leave

An employee is entitled to a compassionate care leave of up to twenty-eight (28) weeks to provide care or support to a member of the employee's family who has a serious medical condition with a significant risk of death within twenty-six (26) weeks from the date the leave commences. In a period of fifty-two (52) weeks, an employee cannot take more than one (1) compassionate care leave.

Critically Ill Family Care Leave

An employee is entitled to a critically ill childcare leave of up to thirty-seven (37) weeks to provide care and support to his or her critically ill child.

An employee is entitled to a critically ill adult care leave of up to seventeen (17) weeks to provide care and support to his or her critically ill adult family member.

A critically ill child care leave or critically ill adult care leave ends when the employee is no longer providing care or support to the child family member or adult family member, it has been fifty-two (52) weeks since the medical certificate was issued, the thirty-seven (37) week period or seventeen (17) week period has ended, or the employee's child family member or an adult family member has died.

Crime-Related Child Death or Disappearance Leave

An employee is entitled to an unpaid leave of up to fifty-two (52) weeks when his or her child under the age of eighteen (18) disappears as the probable result of a *Criminal*

Code offence. Such a leave may only be taken during the fifty-two (52) week period that begins in the week the child disappears.

An employee is entitled to an unpaid leave of up to one hundred and four (104) weeks where his or her child under the age of eighteen (18) has died as a probable result of a *Criminal Code* offence. This may only be taken during the one hundred and four (104) week period that begins in the week when the child died.

Such leave is unavailable to an employee who is charged with the crime or if it is probable the child was a party to the crime.

If a missing child is found alive, the employee may remain on leave for fourteen (14) days after the child is found. If a missing child is found dead, the employee is entitled to 104 weeks of leave from the day the child disappeared.

Public Health Emergency Leave

An employee is entitled to a public health emergency leave for the period during which an order of the chief medical health officer is in force if the employer, a duly qualified medical practitioner, the Government of Saskatchewan, or the chief medical health officer has directed employees to isolate themselves to prevent or reduce the spread of the disease that is the subject of the order.

C. Disability Leave

Disability leave is not covered by statute in Saskatchewan. However, s. 2-40 of the *SEA* states that no employer shall take discriminatory action against an employee because of absence due to the illness or injury of the employee. For that provision to apply, the employee must have been working for the employer for more than 13 consecutive weeks before the absence; the absence does not exceed 12 days in a year for an illness or injury that is not serious or 12 weeks in a year for a serious illness or injury. A doctor's note is provided if requested by the employer.

It should be noted that the *Code* may require the employer to accommodate a disability further than the *SEA*.

D. Pregnancy Leave/Parental Leave

An employee who is pregnant is entitled to a maternity leave of nineteen (19) weeks (commencing at any time during the period of thirteen (13) weeks preceding the estimated date of birth and no later than the date of birth) plus a parental leave of not more than fifty-nine (59) weeks to begin immediately following the maternity leave.

An employee is entitled to adoption leave of nineteen (19) weeks (commencing on the date on which the child comes into the employee's care or becomes available for adoption) if the employee is to be the adopted child's primary caregiver the period of the leave. The employee will also be entitled to a parental leave of not more than fifty-nine (59) weeks to begin immediately following the adoption leave.

E. Other Leaves

Reserve Force Service Leave

An employee who is a member of the reserve force is entitled to a reasonable period of leave for the period of service with the reserve force.

Nomination, Candidate and Public Office Leave

An employee is entitled to an unpaid leave for as many days as required where they are seeking or hold public office.

Citizenship Ceremony Leave

An employee is entitled to an unpaid leave of one (1) day to attend a citizenship ceremony to receive a certificate of citizenship. An employee must provide his or her employer notice of the day they intend to take the citizenship ceremony leave as soon as possible.

Jury Duty

No employee in Saskatchewan can be dismissed from employment by reason only of being summoned for jury service or being required to serve on a jury.

IV. Discrimination & Harassment

A. Discrimination

The Saskatchewan Human Rights Commission (SHRC) administers the *Code* and protects Saskatchewan employees from discrimination in the workplace. The SHRC is enforced through a complaint-driven process. An employee can file a complaint with the SHRC, which investigates the complaint, who can then refer the matter through the Court of King's Bench for a hearing.

The SHRC has broad powers under the *Code*. A contravention of the *Code* relating to the SHRC's powers or Court order on remedy is guilty of an offence punishable by a fine of up to $10,000 for a first offence and $25,000 in the case of a subsequent offence.

The Court can order a party to do whatever it believes is necessary to comply with the SHRC. It can direct restitution, including monetary compensation for wages and losses arising out of the infringement, including damages of up to $20,000 for loss of dignity, or issue other non-monetary orders that are required in the opinion of the Court to promote compliance with the SHRC.

Non-monetary remedies include reinstatement of employment, offering a job to the complainant, consideration of the complainant for the next suitable job, implementation of an affirmative action program, requirements of attendance at seminars on discrimination, review of all employer policies and documents to ensure compliance, provision of a reference, apologizing to the complainant, or posting a written declaration of intention to abide by the SHRC.

The following categories constitute the prohibited grounds of discrimination under *The Saskatchewan Human Rights Code, 2018*:

a) religion;
b) creed;
c) marital status;
d) family status;
e) sex;
f) sexual orientation;
g) disability;
h) age;
i) colour;
j) ancestry;
k) nationality;
l) place of origin;
m) race or perceived race;
n) receipt of public assistance;
o) gender identity.

B. Harassment and Bullying

Under the *SEA*, every worker (which includes an employee, contractor, student and volunteer) has the right to freedom from harassment which is defined as any inappropriate conduct, comment, display, action or gesture by a person towards a worker that either is based on race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin, or adversely affects the worker's psychological or physical well-being and that the person knows or ought reasonably to know would cause a worker to be humiliated or intimated, and, that constitutes a threat to the health or safety of the worker or any conduct, comment, display, action or gesture by a person towards a worker that is of a sexual nature and the person knows or ought reasonably know is unwelcome.

An employer's liability for discrimination is not necessarily limited to the workplace or work hours. The phrase, "in the course of employment," has been interpreted broadly as referring to activities in some way related to or associated with employment.

Pursuant to *SEA* and *The Occupational Health and Safety Regulations, 2020*, RRS c S-15.1 Reg 10, employers must develop and communicate workplace violence and harassment prevention policies and programs and train employees on such policies. In addition, employers must assess risks of workplace violence, take reasonable precaution to protect workers from possible domestic violence in the workplace and provide information to employees about individuals with a history of violence which they may encounter in the workplace.

All workplaces are required to have a violence prevention policy in place that will apply to all workers and all incidents of harassment and/or violence (whether they are formally reported or not) that come to the attention of the employer must be investigated.

V. Termination/Dismissal Issues

A. Justification for Dismissal

If an employer has just cause for dismissing an employee, then the employee can be dismissed without the need for notice or pay in lieu of notice. Just cause for dismissal is not defined in the *SEA*. Generally, Courts have ruled that just cause may exist if the employee is guilty of serious misconduct, such as theft. The facts and circumstances surrounding the misconduct must be examined carefully as each case is different.

Personality conflicts, general dissatisfaction with performance, petty issues, or one incident of inappropriate behaviour or misconduct, are usually not serious enough to warrant dismissal for just cause. In these instances, corrective action may be more appropriate. Barring serious misconduct, employers are expected to follow progressive discipline before terminating an employee for just cause. Employers who condone or ignore misconduct may be prevented from claiming that the dismissal was for just cause.

The employer has the onus of showing it dismissed an employee for just cause. If an employer is terminating an employee for performance issues, the employer is obliged to warn the employee of the performance problems and specifically that they may result in dismissal if they are not remedied. The case law has shown, however, that it is often difficult to establish just cause for performance reasons alone.

“Constructive dismissal” is a form of wrongful dismissal that occurs if an employer changes a fundamental term or condition of an employee's contract of employment without the employee's consent, or without adequate notice. In this event, the employee may be deemed to have been "constructively dismissed," even if the employer has not actually terminated the employee. In such a case, the employee can regard the actions as a dismissal, and sue the employer on that basis. However, if an employee does not object to the "fundamental change" or "constructive dismissal" within a reasonable period of time, the employee may be deemed to condone the change and could lose the opportunity to claim damages for the constructive dismissal.

B. Mandatory Severance Pay

Severance pay is distinct from pay in lieu of notice. There is no right to severance pay under *SEA*, however, parties are free to negotiate a right to severance in employment contracts.

C. Use of Severance Agreements and Releases

A signed release of all claims upon the termination of employment is generally enforceable by the Court in Saskatchewan as long as there is consideration for the release, it is not signed under duress, or is not so unfair as to be considered unconscionable. Employees should be advised to obtain independent legal advice before signing a release.

An employer who requests a release should be providing something over and above the employee’s SEA entitlements or severance set out in the employment contract in exchange for the release. An employer who requests a release in exchange for

providing the employee with entitlements they are already entitled to risks having the court strike out the severance provisions in the employment contract and reverting to common law notice which is often much higher.

When an employment relationship ends, the employer shall pay to the employee the total wages to which the employee is entitled (under the *SEA*) within fourteen (14) days of the last day of employment.

D. Employment References

Employers should carefully consider their word choice when providing employment references. If an employee has been terminated for cause, the employer is better of refraining from providing a reference as opposed to providing a reference indicating that the employee has engaged in misconduct or poor behavior. By providing an unfavorable employment reference, employers are exposing themselves to liability from the former employee through claims of defamation or bad faith. Additionally, the longer that an employee must search for employment, the more likely they are to bring forward a claim of wrongful dismissal and seek compensation. The sooner a dismissed employee can return to work the better as far as a terminating employer is concerned. Along with that, any employee terminated without cause has an obligation to mitigate their damages. By providing negative employment references and prolonging an employees job search, the employer would be exposing themselves to a larger common law reasonable notice award since the employee's inability to get a job would provide evidence that there is an unavailability of similar employment opportunities, a factor the courts consider when making a reasonable notice decision. On the other hand, the employer should refrain from providing falsely positive reviews of an employee as this would expose the employer to liability from a misrepresentation claim initiated by the former employee's new employer.

VI. Layoffs/Work Force Reductions/Redundancies/Collective Dismissals

A. Procedure

- Mandatory Notice Periods

An employer who intends to terminate the employment of ten (10) or more employees in a workplace within any four (4)week period shall give written notice of that intention to each of the Minister of Labour Relations, each employee who will be terminated, and the union if applicable.

The minimum statutory notice required for a group termination is as follows: ten (10) to forty-nine (49) employees: four (4) weeks; fifty (50) to ninety-nine (99) employees: eight (8) weeks; one hundred (100) or more employees: twelve (12) weeks. The employer can give individual and group notice termination at the same time.

- Severance Pay

As previously noted, there is no statutory requirement to pay severance pay for Saskatchewan employers in provincially regulated industries.

- Benefits

Employers are not required by statute to maintain benefits for employees who are laid off. However, benefits should generally be continued over the course of a working notice period. When pay in lieu of notice is given, the Courts often require the employer to include some component in the pay to reflect the benefit coverage the employee would have enjoyed during the notice period.

VII. Unfair Competition/Covenants Not to Compete

A. Trade Secrets

Employment clauses pertaining to confidentiality primarily rely upon the common law for interpretation and application. For the most part, confidentiality provisions assist in determining what the employer considers to be sensitive information. Typically such clauses remain in effect after the end of the employment relationship, as the need for protection is often greater when the employee departs an organization. Further, defining confidential information may be of assistance if an employee breaches those provisions, and must be terminated for cause.

Generally, information is deemed "confidential" where its disclosure could negatively impact the employer's business. Confidential information may include marketing strategy, personnel information, or standard business practices, as well as trade secrets (such as manufacturing processes), sales information, commercial contracts, computerized data, and supplier and customer lists. However, confidential information does not include trivial or self-evident matters, or information in the public domain.

B. Covenants Not to Compete

Subject to contractual obligations, there are few restrictions on the right of an employee in a non-fiduciary position to compete with a former employer because the law favours free competition and Courts are reluctant to impede a dismissed employee from securing alternate employment. On the other hand, there is a larger, more exacting duty imposed on employees with a fiduciary duty that is similar to that owed to a corporate employer by its directors.

Pursuant to the common law, a non-compete clause is presumptively unenforceable unless an employer demonstrates that: (i) the employer has a proprietary interest that warrants protection; (ii) the spatial and temporal restrictions go no further than necessary to protect the proprietary interest; and (iii) the covenant does not offend broader public interests.

In Saskatchewan, investment in employee training does not constitute a proprietary interest. For the most part, a proprietary interest warranting protection relates to client information and client relationships.

C. Solicitation of Customers & Employees

Similar considerations apply to a non-solicit clause, however, the Courts in Saskatchewan have permitted marginally broader restrictions. Generally, the Courts recognize that a non-solicit clause does not prevent an employee from working elsewhere; it simply prevents the employee from trading on a previous relationship.

It should be noted that a non-solicitation clause protects against active (and possibly even implied) solicitation, but does not prevent a client from making a switch on their own initiative.

D. Breach of Duty of Loyalty/Breach of Fiduciary Responsibility

VIII. Personnel Administration

A. Record Keeping

There is a requirement that employers keep records showing the particulars of every written or unwritten contract dealing with wages or other monetary benefits to which any employee is entitled.

Records must be kept for the employee's most recent five (5) years of employment, and the records shall be retained for two years after the date the employment ends.

B. Required Postings

Employers are not required to post material prepared by the Ministry of Labour describing the rights of employees and the obligations of employers.

Saskatchewan employers do have an obligation to post certain information relating to occupational health and safety (OHS), including harassment policies and violence policies.

C. Required Training

Certain employment-related training is mandated, including training on violence and harassment in the workplace and prescribed training for certain safety-sensitive industries.

D. Meal and Rest Periods

Section 2-14 of the *SEA* requires that any employee who works more than five (5) consecutive hours be given at least thirty (30) minutes for an unpaid meal break. The employer is not required to grant a meal break if unexpected, unusual, or emergency circumstances arrive or if it would not be reasonable for the employee to take the meal break. If the employer does not grant the meal break, the employee may eat while working. Further, the employer will grant an employee an unpaid meal break at a time or times that are medically necessary.

Section 2-13 requires that the employee always have eight (8) consecutive hours of rest in any day, except in emergency circumstances. Further, the employee must have one (1) day off every week if they usually work twenty (20) hours or more in a week unless precluded by the regulations.

E. Payment Upon Discharge or Resignation

The *SEA* requires employers to pay outstanding wages to terminated employees no later than fourteen (14) working days after their employment ends.

F. Personnel Records

Employees do not have an express statutory right to access their records. However, employees are entitled to receive employment-related information, such as detailed wage statements.

G. Giving Employment References

There is no statutory obligation for an employer to prepare an employment letter or give employment references.

IX. Privacy

The personal information of employees working in federally regulated organizations is protected under the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5 ("*PIPEDA*"). Information that is found on business cards or websites, such as the employee's name, business title, business address, or business telephone number, does not constitute personal information.

Effective January 1, 2004, all provinces that had not enacted legislation substantially similar to *PIPEDA* are subject to the federal statute. Saskatchewan has not yet enacted privacy legislation for organizations operating in the private sector, and is therefore subject to *PIPEDA*. However, as applied provincially, the legislation governs commercial uses of personal information and does not apply *per se* to the employer-employee relationship.

The Privacy Act, RSS 1978, c P-24 (the "*PA*") is legislation that provides a civil tort where privacy has been willfully breached. To date, it has not been used in the employment context.

Otherwise, the only employment privacy legislation in Saskatchewan applies exclusively to government and public authorities through *The Freedom of Information and Protection of Privacy Act*, SS 1990-91, c F-22.01, *The Local Authority Freedom of Information and Protection of Privacy Act*, SS 1990-91, c L-27.1, and *The Health Information Protection Act*, SS 1999, c H-0.021.

A. Drug and Alcohol Testing

There is no statute in Saskatchewan that specifically regulates drug testing. The *Code* protects individuals against discrimination on the basis of mental or physical disability. Drug and alcohol dependencies are considered to be disabilities protected under the legislation. As such, testing programs that negatively affect persons who suffer from substance dependency may be considered discriminatory. However, there are some situations where such testing can be upheld. The case law has also established that an employee may be requested to submit to an alcohol or drug test if the employer has reasonable grounds to believe, based on observation of the employee's conduct or other indicators that the employee is or may be unable to work in a safe manner.

In 2013, the Supreme Court of Canada released a landmark decision in the area of drug and alcohol testing. In *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Ltd.,* 2013 SCC 34 ("*Irving Pulp & Paper*"), the majority of the Court found that in order for a drug and alcohol testing policy to be upheld, an employer would have to establish that any such policy properly balanced employer safety concerns with the privacy interests of the employees. While that balancing will typically favour pre-access testing, pre-employment testing and for cause testing in safety-sensitive positions, other testing policies have been subject to high levels of scrutiny. In regard to random testing, the Court in *Irving Pulp & Paper* indicated that it was only acceptable in narrow circumstances, where an employer could provide evidence of enhanced safety risks in the workplace due to alcohol and drug use.

Also of note, in 2017, the Supreme Court of Canada released *Stewart v Elk Valley Coal Corp,* 2017 SCC 30, in which the Court upheld the employer's termination of the employee as legitimate, arising from breach of an employer policy requiring disclosure of any dependence or addiction issues before any drug-related incident occurred. Here, the employer operated a safety-sensitive worksite. The employee used cocaine on his off days, and when he was involved in an accident, he tested positive for drugs and later said he thought he was addicted to cocaine. The Court agreed that the employee had the capacity to comply with the terms of the policy and that he would have been fired whether he was an addict or a casual user.

Testing policies have generally taken five (5) distinct forms: pre-access testing, pre-employment testing, for-cause testing, return to work testing, and random testing.

<u>Pre-employment:</u>

- Pre-employment testing is illegal.

<u>Safety-Sensitive Positions:</u>

- Random drug testing for employees in safety-sensitive positions is illegal.
- Random alcohol testing for employees in safety-sensitive positions, where supervision is limited or non-existent, is permissible in Ontario, and may be permissible in other jurisdictions, as long as the method of testing will show impairment.
- Employers may conduct drug and alcohol testing for certification of employees for safety-sensitive positions as long as it is part of a larger method of assessment to determine whether the employee is abusing drugs or alcohol.

- Employers may also conduct drug and alcohol testing as part of a post-reinstatement plan after an employee has been suspended due to drug and alcohol abuse, again, if this is part of a larger assessment of the employee.

  Non-Safety-Sensitive Positions:

- Random alcohol and drug testing for employees in non-safety-sensitive positions is illegal.

All Positions:

- Alcohol testing post-incident and for cause is permissible where there is reason to suspect that alcohol use was part of the problem.
- Alcohol and drug dependency can constitute a disability pursuant to the HRC. There, as is the case for all disabilities, employers have a duty to accommodate disabled employees up to the point of undue hardship.
- Drug testing post-incident and for cause is permissible only if it is necessary as one part of a larger assessment of abuse, recognizing that a positive test does not indicate impairment and should only be used as part of a larger investigation.
- The response to a positive alcohol or drug test cannot be automatic termination. Rather, an employer's response must be tailored to the individual's circumstances, with due regards to the employer's duty to accommodate an employee's disability, if any.
- Employees must be notified during the hiring process that they may be subjected to alcohol and/or drug testing. If a policy is to be implemented with existing employees, they must be provided with reasonable notice of implementation.

B. Off-Duty Conduct

There is no statute in Saskatchewan that specifically relates to off-duty conduct of employees.

Generally, an employer has no right to scrutinize an employee's off-duty behaviour or activities. However, to some extent, an employee's duty to act in the employer's best interests extends into off-work hours. Businesses are entitled to be concerned about their reputations and profits. When an employee, outside the course of his or her employment, does something that puts these interests in jeopardy, the employer has a right to take steps to protect them. Discipline, including termination, may, therefore, be justified when an employee's off-duty conduct is prejudicial to the employer's interests.

Generally, off-duty conduct will warrant dismissal only where the conduct is prejudicial to the employer's business or reputation or negatively impacts the duties of the employee in question; there is a causal connection or nexus between the impugned conduct and the employer's business, and the conduct is "wholly incompatible" with the continuation of the employment relationship.

C. Medical Information

The collection, use, and disclosure of medical information by employers generally would be governed by *PIPEDA*, as described above. Also, note that the misuse of medical information can result in a complaint under the *Code*.

D. Searches

There is no statute in Saskatchewan that specifically regulates searching employees or the possessions of employees. Any searches must also be in compliance with the *Code* and consistent with the relevant case law. If a certain class of employee is searched, but others are not, there may be an infringement under the *Code*.

Employees are entitled to a reasonable expectation of privacy in the workplace. There must be a balance between the employee's right to privacy against the employer's concerns with security and safety in the workplace. The degree of privacy to which a person is entitled in any given situation varies depending on all the circumstances.

In unionized contexts, the collective agreement can place limitations on the ability to conduct search and surveillance. The Court in *United Food and Commercial Workers (U.F.C.W.), Local 1400 v Saskatoon Co-Operative Assn*. considered searching employees or their possession. The plaintiff's unions sought damages for breach of privacy and sought interlocutory and permanent injunctions enjoining the employer from conducting secret visual or auditory surveillance of the union members, spying on the members and interviewing members regarding acts of dishonesty. The Court refused to do so. It held that the employer was entitled to carry out interviews and investigations of suspected property losses provided it did so in a lawful way and not in contravention of *The Trade Union Act*, RSS 1978, c T-17 (then – now the *SEA*) or the collective agreement.

E. Lie Detector Tests

Saskatchewan legislation does not include specific provisions addressing the issue of lie detectors; however, under the common law it is unlikely that an employee could be forced to take a lie detector test.

F. Fingerprints

Saskatchewan legislation does not include specific provisions addressing the issue of fingerprinting.

G. Social Security Numbers

There is no requirement for Saskatchewan employees to provide their social insurance numbers to an employer.

H. Surveillance and Monitoring

There is no statute in Saskatchewan that specifically regulates surveillance of individuals in the workplace. However, the *PA* speaks to a general tort for a person willfully and without claim of right violating the privacy of another person, although, as mentioned, this hasn't been specifically considered in the employment context. Like the issue of

searches, a balance must be struck between the purpose of the surveillance/monitoring and a reasonable expectation of privacy. Many employers implement policies that make clear that some monitoring of employer property (including laptops, email, etc.) will take place, and cautions against improper use. For the most part, such cautions will influence analysis with respect to an employee's reasonable expectation of privacy.

In *SGEU v Unifor Local 481*, 2015 CanLII 28482 (SK LA), an arbitrator considered an issue where an employer had terminated an employee for being an associate of a motorcycle club. Toward supporting that termination, the employer searhed the grievor's email account on its server. The employer's policy set out that there was no expectation of privacy in using its email system. In considering *R v. Cole*, the arbitrator found that this was a violation of the reasonable expectation of privacy. He noted that although an investigation of the grievor was justified, the search of emails to and from his spouse was not reasonable at the time it was carried out. Relying only on second or third-hand information about the grievor, the employer's first and immediate response was to scrutinize his personal emails. There was no evidence that alternatives to this invasive search were considered, possibly because the employer believed that it owned the email system, and no barrier existed to such scrutiny.

I. Cannabis (medical)

Cannabis is a drug that has been legalized for medical use in Canada for many years, and for recreational use since 2018. Canadian law emphasizes the right of employees to access medical treatment without facing discrimination in the workplace. In relation to the use of medical marijuana, employers have a duty to accommodate their employees, while also maintaining a safe work environment. This may involve ensuring that employees in safety sensitive positions are not impaired, while keeping in mind the considerations noted above regarding drug testing in the workplace. Employers should also consider providing education and training to staff about medical marijuana and its implications in the workplace. To accommodate marijuana dependent employees, employers may need to modify an employee's work hours, provide breaks so that the employee can take their prescribed dose, or re-assign the employee to a non-safety sensitive position. An employer who fails to accommodate employees that require the use of medical marijuana will be exposing themselves to human rights complaints and civil actions.

J. Social Media

Social media is becoming a consistently more relevant part of our day to day lives. The use of social media in the workplace can present concerns regarding both employee productivity and the disclosure of confidential company information. If an employer is seeking to control social media use in the workplace, they should develop a companywide social media policy. This policy should include clear expectations and consequences that will be enforced. When drafting such a policy the employer should consider the proper uses for social media in the workplace, if any. The employer must also consider the employees rights, privacy considerations (for both the employee and the company), the use of company property for social media use, and the safety effects of such use. The employer must also determine how best to monitor for compliance and enforce the policy. Once a policy is drafted the employer must ensure that each

incoming employee is onboarded and has agreed to the terms of the policy. The policy must also be enforced uniformly across the workplace.

K. Weapons/Workplace Violence Policy

Under section 3-8(d.1) of *The Saskatchewan Employment Act*, employers are responsible for ensuring that employees are not exposed to violence at work. As of 2023 all employers are required to develop and implement a written policy statement and prevention plan to deal with potentially violent situation.

X. Employee Injuries and Workers Compensation

A. Work-Related Injuries

B. Non-work related injuries

In Saskatchewan, *The Workers' Compensation Act, 2013*, SS 2013, c W-17.11 (the "*WCA*") governs the entitlement to compensation for personal injury caused to employees by accident or occupational illness arising out of and in the course of employment. The Workers' Compensation Board (the "WCB") has exclusive legal authority to make all decisions arising under the *WCA*.

There are numerous classes of employees who are excluded from coverage under the *WCA*, including many agricultural workers.

Employers who fall under *WCA* must register with the WCB, and it is against the law to avoid registration. The workers' compensation system is funded through the payment of premiums by employers with coverage. The premium rates are set based on historical data and trends. An employer's rate is the cost of coverage per $100.00 of insurable earnings.

The *WCA* provides protection for the employee and employer regardless of who caused the work injury. An employee cannot sue an employer for a work-related injury or disease. Further, it is against the law for an employer to take deductions, directly or indirectly, from an employee's earnings to pay the cost of coverage under the *WCA*. In the instance of a workplace injury or illness, the employee, the employee's physician, and the employer are required to provide reporting forms to the WCB. The WCB then confirms if the employee is covered; where there is proper workers' compensation coverage for the employee, and the injury or illness arose out of or in the course of employment, the claim is processed to determine the appropriate compensation benefits for the employee.

Under the *WCA*, employees are entitled to wage replacement for lost income while they are totally disabled by the work injury or illness. If the employee is deemed by the WCB to be fully capable of working, then the employee is no longer eligible for wage replacement. The WCB also covers the costs of medical aid required as a result of a workplace injury or illness, including hospital care, medical attention, medication and surgery, in addition to other required benefits and treatments.

Employees and employers can have a decision reviewed by the WCB by completing a Request to Review form, which must be submitted within one (1) year from the time and date of the original decision. This time limit may be extended if there is a justifiable reason for doing so.

Employers also have a duty to accommodate an injured employee to the extent that the accommodation does not cause undue hardship. The employer and employee must attempt to identify employment at the workplace, consistent with the employee's functional abilities that will restore the employee's pre-injury earnings to the extent possible.

XI. Unemployment Compensation

A. Eligibility

Employment Insurance benefits are provided by the Federal Government under the *Employment Insurance Act*, SC 1996, c 23. An individual is qualified to receive employment insurance benefits if, prior to becoming unemployed, he or she accumulated a certain amount of employment hours, based on regional rates of unemployment.

B. Procedure

Employment insurance benefits can be applied for online at the Government of Canada website. The employment insurance application takes about 1 hour to complete and requires the input of the employee’s social insurance number, the last name at birth of one of their parents, their mailing and residential addresses, their banking information to sign up for direct deposit, and records of employment from all of the employees employers over the previous year, or since their last claim, whichever is shorter.

XII. Health and Safety

A. Overview

Occupational health and safety provisions are found in Part III of the *SEA*. The *SEA* promotes a shared responsibility between the employer and employee for the health and safety of workers in the workplace. Every employer, as far as is reasonably practicable, must ensure the health and safety of all of its employees, as well as any other workers present at a workplace at which the employer's work is being carried out. An employer must remedy any workplace conditions that are hazardous to the health and/or safety of its workers.

An employer must also ensure that its workers are aware of their responsibilities and duties under the *SEA*. This entails communicating adequate instructions of safety precautions to employees either verbally or in writing and following up to ensure that the instructions are carried out. Employers must provide and maintain in good condition protective equipment, devices, and clothing and ensure that their workers use such equipment.

An employer also has an obligation to:

- Create an occupational health and safety committee where there is ten (10) or more employees (there is an obligation of having an occupational health and safety representative if there is less than ten (10) employees);

- Prepare and review, no less than every three (3) years, a written occupational health and safety policy, and develop and maintain a program to implement that policy;

- Prepare and communicate to employees a policy and program to address workplace harassment and violence; and

- Control biological and chemical substances in the place of employment; such substances must be properly stored, handled, disposed of, and labelled.

Under the legislation, a worker has the right to refuse to perform any work if the worker has reasonable grounds to believe that the work is unusually dangerous to the worker's health or safety or the health or safety of any other person.
An employer who contravenes the occupational health and safety provisions of the *SEA* may face action by an occupational health officer. The occupational health officer will either require the person to enter into a compliance undertaking or serve a notice of contravention on the person. Contraventions of the *SEA* offer an array of penalties; however, convictions for persons and corporations that cause the death or serious injury of an individual have penalties that range from up to $1,500,000 and a two (2) year prison term.

XIII. Trade Unions – Industrial Relations

A. Overview

Part VI of the *SEA* regulates all aspects of unionized employment in Saskatchewan. It governs the relationship between unionized employees, unions, and employers, sets a framework for proper conduct in the union-management relationship, and sets out timelines relating to bargaining rights in order to enhance stability.

Employees have the right to organize in and form, join, or assist unions and to engage in collective bargaining through a union of their own choosing. No employee shall be unreasonably denied membership in a union. Every union and employer shall, in good faith, engage in collective bargaining in the time and manner required by statute.

A union may, at any time, apply to the board to be certified as bargaining agent for a unit of employees appropriate for collective bargaining if a certification order has not been issued for all or a portion of that unit. When applying for certification, the union must establish that forty-five (45%) percent or more of the employees in the unit have within the ninety (90) days preceding the date of the application indicated that the applicant union is their choice of bargaining agent, and file evidence of each employee’s support.

Before issuing a certification order, the board shall direct a vote of all employees eligible to vote to determine whether the union should be certified as the bargaining agent for the proposed bargaining unit. The board may refuse to direct the vote if the board has, within the twelve (12) months preceding the date of the application, directed a vote of employees in the same unit or substantially similar unit on the application of the same union. If, after a vote is taken, the board is satisfied that a majority of votes favour certification of the union as the bargaining agent for a unit of employees, the board shall issue an order certifying the union as the bargaining agent for that unit.

Applications can be made to cancel certification if the union ceases to be a union or if the union was engaging in unfair labour practice prior to the certification order. Additionally, an application to cancel certification can also be made in cases of abandonment or loss of support.

If a business or part of a business is sold, leased, transferred, or otherwise disposed of, the person acquiring the business or part of the business is bound by all board orders, and all proceedings had and taken before the board before the acquisition.

Strikes and lockouts are prohibited during the term of a collective agreement, and bargaining is required before a strike or lockout. Further, no union shall declare or authorize a strike, and no employee shall strike before a vote has been taken by the employees in the bargaining unit affected and the majority of those employees who vote have voted for a strike. If an employer and a union are unable, after bargaining in good faith, to conclude a collective agreement, the employer or union shall provide a notice to the Minister that they have reached an impasse. As soon as possible after this, the Minister is to appoint a labour relations officer or special mediator or establish a conciliation board to mediate or conciliate the dispute. There is a fourteen (14) day cooling-off period if the Minister has been informed that the dispute has not been settled before a strike or lockout can occur. Then, the union or employer must give the other party at least forty-eight (48) hours written notice of the date and time that the strike or lockout will commence and notify the Minister of the date and time that the strike or lockout will start.

During a strike or lockout, the union representing striking or locked-out employees may tender payments to the employer in amounts sufficient to continue the employees' membership in a benefit plan. Following the conclusion of a strike or lockout, if an employer and a union have not reached an agreement for reinstating striking or locked-out employees, the employer shall reinstate striking or locked-out employees to the position they held when the strike or lockout began.

- Favoured/Disfavoured by Government
- Prevalence of Trade Unions
- Special Requirements (e.g. US-Right to Work)
- Works Council
- Challenges for a Unionized Business

B. Right to Organize/Process of Unionization

C. Managing a Unionized Workforce

Collective Bargaining

Authorized representatives of the union and employer shall meet within twenty (20) days after the board issues a certification order or any other period that the parties agree on. The union and employer shall commence collective bargaining with a view to concluding a collective agreement. Before the expiry of the collective agreement, either party to the collective agreement may give notice in writing to the other party to negotiate a renewal or revisions of the collective agreement or a new collective agreement not less than sixty (60) days and not more than one hundred and twenty (120) days prior to the expiry date of the collective agreement.

A collective agreement is binding on a union that has entered into it or becomes subject to it, every employee of an employee affected by it, and an employer who has entered into it. Disputes between the parties to a collective agreement respecting its meaning, application, or alleged contravention, including a question as to whether a matter is arbitrable, are to be settled by arbitration after exhausting any grievance procedure established by the collective agreement.

The effect of a collective agreement is that it prevents strikes and lockouts, as well as certifications and revocations and requires arbitration. Further, it usually contains provisions such as the following:

Union membership or dues payments
Terminations without cause
Seniority
Layoff and recall
Contracting out
Hours of work
Pay and benefits
Other work rules
Discrimination
Management rights

Employers cannot participate or interfere with representation of employees or the formation or administration of a trade union, with the exception of exercising the employers' right to free speech. Further, employers cannot discriminate against employees because of union membership or involvement or intimidate, coerce, threaten, make promises to, or exercise undue influence over employees regarding union support.

Dispute Resolution

Impact on Management Rights

XIV. Immigration / Labour Migration

Immigration/Labour Migration is governed via federal legislation. There are no applicable provincial laws or statutes pertaining to Immigration/Labour Migration in Saskatchewan.

XV. Additional Information

For more information about labor and employment law in Saskatchewan, please contact:

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