

The Labour Standards Act

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Chapter L-1 of *The Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979) as amended by the *Statutes of Saskatchewan*, 1979, c.69; 1979-80, c.84 and 92; 1980-81, c.63; 1983, c.11 and 66; 1983-84, c.16; 1984-85-86, c.16; 1986, c.14; 1988-89, c.42; 1989-90, c.54; 1993, c.P-6.2; 1994, c.39; 2000, c. 26; 2001, c.6; 2002, c.R-8.2 and 49; and 2004, c.10, 40 and 65.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

Table of Contents

	SHORT TITLE	26	Reinstatement after maternity leave
1	Short title	27	Employer not to dismiss pregnant employee; magistrate may order employer to comply
	INTERPRETATION	28	Notice to employer of intention to resume employment
2	Interpretation	29	Repealed
3	Appointment of officers		
4	Application of Act		
	PART I		PART IV.I
	HOURS OF WORK		OTHER LEAVE
5	Interpretation of Part	29.1	Parental leave
6	Hours of work and overtime pay	29.2	Adoption leave
7	10-hour day	29.3	Bereavement leave
8	Meaning of “ permit any employee to work ”		PART V
9	Averaging		ANNUAL HOLIDAYS
10	Observance of public holiday	29.4	Interpretation of Part
11	Power to revoke authorizations	30	Annual holiday to which employee is entitled; “ accumulated year of employment ”
12	Employer not to require employee to work overtime	31	Manner of taking annual holiday
13	Period of rest	32	Notice of holiday period
13.1	Work schedules	33	Remuneration payable to employee in respect of annual holiday
13.2	Break between periods of work	34	Procedure when public holiday occurs during annual holiday
13.3	Meal breaks	35	Termination of employment
	PART II	36	Period of notice not part of annual holiday
	MINIMUM WAGES	37	Agreement to forego annual holiday
14	Interpretation		PART VI
15	Minimum Wage Board appointment and powers		PUBLIC HOLIDAYS
15.1	Regulations for employment	38	Interpretation
16	Special licences	39	Public holiday pay
	PART III	40	Agreement or order respecting observance of holiday
	EQUAL PAY	41	Lieutenant Governor in Council may provide for minimum sum of money
17	Equal pay		PART VII
18	Inquiry by officer and report to director		EMPLOYEES' WAGES
19	Formal inquiry by Saskatchewan Human Rights Commission	42	Repealed
20	Procedure on inquiry	43	Notice to employee of discharge
21	Order to be complied with	44	Payment to employee in case of discharge or lay-off
22	Offences and penalties	44.1	Notice of group termination
	PART IV	44.2	Dismissal, etc., for illness or injury prohibited
	MATERNITY LEAVE FOR FEMALE EMPLOYEES	44.3	Reassignment, etc., of disabled employee
23	Conditions for applications, etc.	45	More favourable provisions in contract of service or custom to prevail
24	Further period of leave		
25	Employer may require commencement of maternity leave		

45.1	Provision of benefits
46	Practice respecting payment of wages to be continued
47	Request for pay every seven days
48	Time for payment of wages in cases not provided for
49	Manner of payment
50	Restricting provision in contract void
51	Payment of undisputed part of disputed wage claim
52	Wages payable notwithstanding industrial dispute
53	Responsibility of certain contractors with respect to wages of subcontractors' employees
54	Third party demand
55	Moneys received by director pursuant to third party demand
55.1	Dispute of liability by third party
56	Trust for wages due
57	No right of action for goods supplied
58	Voluntary purchase by employee
59	Deductions from wages
60	Wage assessment
61	Adjudicators
62	Commencement of appeal to adjudicator
62.1	Hearing by adjudicator
62.2	Decision of adjudicator
62.3	Further appeals
62.4	Director's certificate
63	Directors of corporation liable for wages
64	Repealed
65	Repealed

PART VIII ADMINISTRATION

66	Power to inspect records
67	Investigations and inquiries
68	Power of minister's representative to determine amount of wages payable
68.1	Fee re wage assessment
68.2	Director as representative of employees

68.3	Negotiation and settlement by director
68.4	Time limit for certain claims
69	Posting of notices
70	Employer to keep record of wages, hours worked, etc.
71	Records of director

PART IX GENERAL

72	Effect of Act on other Acts, agreements, contracts and customs
73	Other remedies preserved
74	Discrimination by employer prohibited
75	Agreements not to deprive employees of benefits of Act
76	Employee not to return wages to employer
77	Remuneration of board or committee members
78	Enforcement of outside wage judgments
79	Application to set aside registered order
80	Leave of absence to seek nomination and election
81	Prohibition against discharging employee for garnishee proceedings
82	All money payable deemed to be wages
83	Employment deemed continuous
83.1	Service of documents
83.2	Conflict with <i>The Pension Benefits Act, 1992</i>
83.3	Vote to approve variation

PART X REGULATIONS

84	Regulations
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PART XI OFFENCES AND PENALTIES

85	Penalty
86	Directors, etc., of corporation guilty of certain offence
87	Order for payment of unpaid wages
88	Orders to prepare, etc., records and information
89	Order to reinstate wrongfully dismissed employee
90	Time limit for prosecutions

Editorial Appendix

CHAPTER L-1

An Act respecting Annual Holidays, Hours of Work, Minimum Wages and Other Employment Standards

SHORT TITLE

Short title

- 1 This Act may be cited as *The Labour Standards Act*.

INTERPRETATION

Interpretation

- 2 In this Act:

- (a) **“annual holiday pay”** means an amount of money to which an employee is entitled pursuant to subsection 33(1);
- (a.01) **“corporate director”** means a director of a corporation that is an employer;
- (a.1) **“department”** means the department over which the minister presides;
- (b) **“deputy minister”** means the deputy minister of the department;
- (c) **“director”** means the Director of the Labour Standards Branch of the department or any other person employed by that department that the minister may designate;
- (d) **“employee”** means a person of any age who is in receipt of or entitled to any remuneration for labour or services performed for an employer;
- (e) **“employer”** means any person that employs one or more employees and includes every agent, manager, representative, contractor, subcontractor or principal and every other person who 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;
- (f) **“establishment”** means a place of business or the place where an undertaking or a part thereof is carried on;
- (g) **“hotel”** includes a boarding house or rooming house in which there are more than five beds set apart for the use of boarders or lodgers;
- (h) **“lay-off”** means the temporary termination by an employer of the services of an employee for a period exceeding six consecutive days;
- (i) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

- (j) **“occupational classification”** means:
 - (i) classification of employees on the basis of the performance of similar work or duties and the exercise of a similar type and degree of skill; or
 - (ii) where only one employee is employed by an employer to perform work or duties of a particular kind or to exercise a particular type and degree of skill, the job or position of that employee;
- (k) **“officer”** means an inspector of the Labour Standards Branch of the department or any other duly authorized representative of the minister;
- (l) **“pay”** means remuneration in any form;
- (l.1) **“pay in lieu of notice”** means an amount of money that is payable to an employee pursuant to section 44;
- (l.2) **“public holiday pay”** means an amount of money to which an employee is entitled pursuant to section 39;
- (m) **“rate of wages”** means the basis of calculation of wages;
- (m.1) **“registrar of appeals”** means an employee of the department who is designated by the minister to act as registrar of appeals for the purposes of this Act;
- (n) **“restaurant”** means a place in or from which meals or light lunches, or both, are supplied daily to more than five persons for a consideration;
- (o) **“Saskatchewan Day”** means the first Monday in August of each year;
- (p) **“shop”** means any premises where a retail trade or business is carried on and includes business premises in which the principal trade or business carried on is that of a shoemaker, shoe-repairer or shoe-rebuilder and any other premises declared by order of the Lieutenant Governor in Council to be a shop within the meaning of this Act;
- (p.1) **“third party”** means a person who is, or is about to become, indebted to or liable to pay money to an employer;
- (p.2) **“third party demand”** means a demand made pursuant to subsection 54(2) or (8);
- (q) **“total wage”**, in respect of any period of employment of an employee, means all remuneration that the employee is paid or is entitled to be paid by his employer, whether or not payment is actually made during that period of employment, in respect of the labour or services that he performs for his employer during that period of employment, and includes:
 - (i) sums deducted from such remuneration for any purpose whatever;
 - (ii) remuneration in respect of overtime work that he performs for his employer during that period of employment;
 - (iii) remuneration in respect of any annual or special holiday that his employer permits him to take during that period of employment;
 - (iv) the cash value of any board or lodging received by the employee as part payment of wages during that period of employment;

(q.1) **“wage assessment”** means a wage assessment issued by the director pursuant to section 60;

(r) **“wages”** means all wages, salaries, pay, commission and any compensation for labour or personal services, whether measured by time, piece or otherwise, to which an employee is entitled;

(s) **“week”** means the period between midnight on a Saturday and midnight on the Saturday immediately following.

1976-77, c.36, s.2; R.S.S. 1978, c.L-1, s.2; 1979-80, c.84, s.3; 1983, c.11, s.42; 1988-89, c.42, s.55; 1994, c.39, s.3.

Appointment of officers

3 The Public Service Commission may appoint any inspectors or officers and any other employees that may be required to carry out the provisions of this Act and the regulations.

1976-77, c.36, s.3; R.S.S. 1978, c.L-1, s.3.

Application of Act

4(1) Subject to subsections (1.1), (2), (3) and (4) and to the regulations, the provisions of this Act apply to the Crown in right of Saskatchewan and to every employee employed in the Province of Saskatchewan and to the employer of every such employee.

(1.1) Without limiting the generality of subsection (1) but subject to the exemptions prescribed in the regulations, this Act applies to employees who work at home.

(2) Part I of this Act does not apply to an employee who performs services that are entirely of a managerial character.

(3) Subject to subsection (3.1), this Act does not apply to an employee employed primarily in farming, ranching or market gardening.

(3.1) For the purposes of subsection (3), the following are deemed not to be within the meaning of farming, ranching or market gardening:

- (a) the operation of egg hatcheries, greenhouses and nurseries;
- (b) bush clearing operations;
- (c) commercial hog operations.

(4) Parts I, V and VI of this Act do not apply to teachers as defined in section 2 of *The Education Act*.

1976-77, c.36, s.4; R.S.S. 1978, c.L-1, s.4; 1994, c.39, s.4; 2002, c.49, s.2.

PART I

Hours of Work

Interpretation of Part

5 In this Part, **“day”** means any period of 24 consecutive hours.

1994, c.39, s.5.

Hours of work and overtime pay

6(1) Subject to sections 7, 9 and 12, no employer shall, unless he complies with subsection (2), require or permit any employee to work or to be at his disposal for more than eight hours in any day or 40 hours in any week.

(2) Subject to sections 7 and 9, an employer who requires or permits an employee to work or to be at his disposal for more than eight hours in any day or 40 hours in any week shall pay to that employee wages at the rate of time and one-half for each hour or part of an hour in excess of eight hours in any day, or 40 hours in any week, during which he requires or permits the employee to work or to be at his disposal.

(3) In applying subsection (2), where the total of the daily excesses differs from the weekly excess, the employer shall make payment in respect of the greater excess.

(4) The hours during which an employee is required or permitted to work or to be at the disposal of his or her employer are deemed not to include any meal break allowed to employees if notice of the meal break is given in accordance with subsection 13.1(1) and if the employee is not in fact at the disposal of his or her employer during the meal break.

(5) For the purpose of calculating the wages of an employee on an hourly basis in order that the employee may receive the wages to which he is entitled pursuant to this Act, the following rules apply:

- 1 Where the employee is paid his wages on a daily basis, the hourly wage of the employee shall be the regular wages of the employee for one day divided by the number of hours of the day during which the employee is required or permitted to work or to be at the disposal of his employer, and in no case shall the number of hours exceed eight;
- 2 Where the employee is paid his wages on a weekly basis, the hourly wage of the employee shall be the regular wages of the employee for one week divided by the number of hours of the week during which the employee is required or permitted to work or to be at the disposal of his employer, and in no case shall the number of hours exceed 40;
- 3 Where the employee is paid his wages on a monthly basis, the hourly wage of the employee shall be the regular wages of the employee for one month multiplied by 12 and divided by the figure received when 52 is multiplied by the number of hours of the week during which the employee is required or permitted to work or to be at the disposal of his employer, and in no case shall the number of hours exceed 40;
- 4 Where the employee is paid his wages on a basis other than an hourly, daily, weekly or monthly basis, the hourly wage of the employee shall be determined in accordance with the regulations.

1976-77, c.36, s.6; R.S.S. 1978, c.L-1, s.6; 1994, c.39, s.6.

10-hour day

7(1) For the purpose of confining hours of work within four days in any week, upon receiving a written authorization from the director and subject to any conditions that he may prescribe, an employer may, in any occupational classification, require or permit any employee to work or to be at his disposal for 10 hours in any day without paying him wages at the rate of time and one-half, but where an employee works or is at his employer's disposal for more than 10 hours in any day or 40 hours in any week, the employer shall pay the employee wages at the rate of time and one-half for the time worked in excess of those times.

(2) No authorization pursuant to subsection (1) is necessary where the employer:

- (a) obtains the written consent of the trade union representing the employees; and
- (b) does not require or permit the employee to work or to be at his disposal for more than 10 hours in any day or 40 hours in any week without paying him wages at the rate of time and one-half for the time worked in excess of those times.

1979-80, c.84, s.4.

Meaning of "permit any employee to work"

8 Where an employer has knowledge that an employee is working and he does not cause him to stop working, he shall be deemed to have permitted such an employee to work within the meaning of the expression "permit any employee to work" as used in sections 6 and 7.

1976-77, c.36, s.8; R.S.S. 1978, c.L-1, s.8.

Averaging

9(1) Upon receiving a written authorization from the director and subject to any conditions that he may prescribe, an employer may, in any occupational classification, require or permit any employee to work or to be at his disposal in excess of eight hours in any day or 40 hours in any week without paying the employee wages at the rate of time and one-half, but the average number of hours worked by that employee over any period of weeks that may be prescribed by the director must not exceed eight hours in any day or 40 hours in any week, unless the employee is paid wages at the rate of time and one-half for the time worked in excess of those times.

(1.1) Notwithstanding any other provision of this Act, where the director grants an authorization pursuant to subsection (1), the director shall determine when the employer is required to pay wages to the employees at the rate of time and one-half and shall specify that in the authorization.

(2) No authorization pursuant to subsection (1) is necessary where:

- (a) the employer obtains the written consent of the trade union representing the employees; and
- (b) the average number of hours worked by an employee over any period of weeks that may be consented to by the trade union does not exceed eight hours in any day or 40 hours in any week, unless the employee is paid wages at the rate of time and one-half for the time worked in excess of those times.

1979-80, c.84, s.5; 1994, c.39, s.7.

Observance of public holiday

10(1) Where in any week there is a public holiday mentioned in Part VI:

- (a) subsections 6(1) and (2), and section 7, shall be read with the substitution of the word “32” for the word “40” wherever it occurs in those provisions; and
 - (b) in calculating the time worked by an employee in any such week, no account shall be taken of any time worked by him on the public holiday or of any time during which he was at the disposal of his employer during the public holiday.
- (2) Where section 9 applies and where in any week during the period of weeks prescribed by the director under section 9 there is a public holiday mentioned in Part VI, the total number of hours that the employee is required by his employer to work or to be at his disposal over the period of weeks, without being paid wages at the rate of time and one-half, shall be reduced by eight hours and the employer shall pay to the employee wages at the rate of time and one-half for each hour and part of an hour that the employee works, or that he is at the disposal of the employer, in excess of the working hours as reduced by this subsection and for the purpose of this subsection, in calculating the total number of hours worked by an employee over any such period of weeks, no account shall be taken of any time worked by him on the public holiday or of any time during which he was at the disposal of his employer during the public holiday.

1976-77, c.36, s.10; R.S.S. 1978, c.L-1, s.10.

Power to revoke authorizations

11 The director may at any time revoke an authorization given pursuant to section 7 or 9 upon being satisfied that a condition of the authorization has been breached or that the authorization is no longer necessary or advisable.

1976-77, c.36, s.11; R.S.S. 1978, c.L-1, s.11.

Employer not to require employee to work overtime

12(1) Notwithstanding any other provision in this Act, no employer shall, without the consent of the employee, require an employee to work or to be at his disposal for more than 44 hours in any week or, in the circumstances referred to in clause 10(1)(a), 36 hours in any week, except in the case of emergency circumstances.

(2) Where an employee refuses to work or to be at the disposal of an employer contrary to the employer's requirement made under subsection (1) and where no emergency circumstances exist, no disciplinary action shall be taken against the employee by the employer.

(3) In any prosecution alleging a violation of this section, the onus shall be upon the employer to prove that an emergency existed or that the employee was discriminated against for good and sufficient other reason.

(4) For the purposes of subsections (1) and (2), “**emergency circumstances**” means any sudden or unusual occurrence or condition that could not, by the exercise of reasonable judgment, have been foreseen by the employer.

1976-77, c.36, s.12; R.S.S. 1978, c.L-1, s.12.

Period of rest

13(1) An employer shall grant to every employee who is usually employed for 20 hours or more in a week a rest period of one day in every seven days.

(2) Notwithstanding subsection (1), where there are more than 10 employees in any establishment, the employer shall grant to every employee who is usually employed for 20 hours or more in a week a rest period of two consecutive days in every seven days, and one of those days is to be a Sunday wherever possible.

(3) Notwithstanding subsections (1) and (2), an establishment or class of establishments may be exempted from any of the provisions of this section by the regulations.

(4) Where the director is satisfied that subsections (1) and (2) would work a hardship on an employer or any class of employers or any of his employees, the director may grant a permit exempting the employer or class of employers from the provisions of subsection (1) or (2), upon any terms and conditions that he considers advisable.

(5) The director may at any time cancel any exemption made pursuant to subsection (4).

1979-80, c.84, s.6.

Work schedules

13.1(1) An employer shall give notice to employees of:

- (a) the time when work begins and ends over a period of at least one week;
- (b) where 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) Subject to subsection (2.1), the notice required by subsection (1):

- (a) shall be in writing; and
- (b) may be given by posting notices in conspicuous places where employees have ready access to read the notices.

(2.1) The notice required by subsection (1) need not be in writing or posted:

- (a) where posting the notice is impractical due to the small size of the employer's operation; or
- (b) in other cases, where written notice is impractical.

(3) An employer shall give an employee at least one week's notice of a change in the employee's work schedule.

(4) On receipt of a written application from an employer and the employees or a representative of the employees, the director may give a written authorization permitting a variation from the requirements of subsection (1) or (3) where the director is satisfied that the application of those provisions would be unsuitable in the circumstances.

(5) The director may permit a variation from the requirements of subsection (1) or (3) where the employer seeks and obtains the written consent to the variation from the trade union representing the employees.

(6) Subsections (1) and (3) do not apply where any sudden or unusual occurrence or condition arises that could not, by the exercise of reasonable judgment have been foreseen by the employer.

1994, c.39, s.8.

Break between periods of work

13.2(1) Subject to any regulation made pursuant to clause 15.1(1)(c) but notwithstanding any other provision in this Act, no employer shall require an employee to work or to be at the disposal of the employer for periods that are scheduled so that the employee does not have a period of eight consecutive hours of rest in any period of 24 hours, except in emergency circumstances within the meaning of subsection 12(4).

(2) No employer shall take disciplinary action against an employee who refuses to work or to be at the disposal of the employer according to a schedule that does not allow the employee to have a period of eight consecutive hours of rest in a period of 24 hours where no emergency circumstances exist.

(3) Payment of wages at the rate of time and one-half pursuant to section 6 by an employer does not constitute a defence to a charge alleging a contravention of this section.

1994, c.39, s.8; 2004, c.40, s.3.

Meal breaks

13.3(1) An employer shall grant to each employee who works six hours or more an unpaid meal break of at least 30 minutes within every five consecutive hours of work except:

- (a) where an accident occurs, urgent work is necessary or other unforeseeable or unpreventable circumstances occur;
- (b) where the director is satisfied that the employer and a majority of employees agree that the employees may:
 - (i) take their meal break at another time; or
 - (ii) forego their meal break;
- (c) where the employer seeks and obtains the written consent of the trade union representing the employees;
- (d) where it is not reasonable for an employee to take a meal break; or
- (e) in any other case prescribed in regulations made pursuant to section 84.

(2) Where it is necessary for medical reasons, an individual employee is entitled to take a meal break at a time or times other than the time specified in subsection (1).

(3) Where an employee has worked five hours and the employer is not required to grant a meal break to an employee, the employer shall permit the employee to eat while working.

1994, c.39, s.8.

PART II

Minimum Wages

Interpretation

14 In this Part, except in clause 15.1(1)(d), “**board**” means the Minimum Wage Board appointed under the authority of this Part.

1976-77, c.36, s.14; R.S.S. 1978, c.L-1, s.14;
2004, c.40, s.4.

Minimum Wage Board appointment and powers

15(1) There shall continue to be a board, called the Minimum Wage Board, to be appointed by the Lieutenant Governor in Council and consisting of five persons, one of whom shall be appointed chairperson and at least two of whom shall be females.

(2) Three members of the board constitute quorum.

(3) The members of the board hold office during pleasure.

(4) The board shall review the minimum wage and make recommendations to the minister respecting the minimum wage at least once every two years.

(5) The board may review and make recommendations to the minister respecting matters and things pertaining to or in any way connected with the subject matter of section 15.1.

(6) The board may make inquiries and investigations respecting matters and things pertaining to or in any way connected with the subject matter of this Part, and the members of the board shall, for that purpose, have all the powers conferred upon commissioners under sections 3 and 4 of *The Public Inquiries Act*.

2004, c.40, s.5.

Regulations for employment

15.1(1) The Lieutenant Governor in Council may make regulations:

(a) determining which employees in any class of employment are full-time employees and fixing the minimum wage that shall be paid to full-time employees in any class of employment;

(b) determining which employees in any class of employment are part-time employees, fixing the minimum wage that shall be paid to part-time employees in any class of employment and limiting the number or proportion of employees in any establishment who may be paid as part-time employees;

(c) fixing the period in any day within which the hours of work of employees in any class of employment shall be confined;

(d) if board, whether full or partial, is furnished by an employer to an employee, fixing the maximum price to be charged or the maximum deduction to be made for board from the wages of the employee by the employer;

(e) if living quarters, permanent or temporary, are furnished by an employer to an employee, whether or not the quarters are self-contained and whether or not the employer retains general possession and custody, fixing the maximum price to be charged or the maximum deduction to be made for the living quarters from the wages of the employee by the employer;

- (f) subject to any relevant Act of the Legislature, fixing the minimum age at which employees may be employed in any class of employment;
 - (g) subject to subsection 48(1.1), requiring every employer in any class of employment to furnish to each of his or her employees, at such time or times and in such form and detail as may be required, a written statement of the wages and deductions from wages of the employee;
 - (h) 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;
 - (i) 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;
 - (j) 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;
 - (k) defining any word or expression used in this Part but not defined in this Act.
- (2) Every provision in a regulation made pursuant to subsection (1), unless the contrary is specifically provided therein, shall apply to every employee in any establishment with respect to which the regulation applies, whether the employee is paid on an hourly, daily, weekly, fortnightly, monthly or yearly basis, or on a piece-work or other incentive basis, or on a combination of any of those bases, or on any other basis.
- (3) A regulation made pursuant to subsection (1) may be of general application or may be restricted to establishments in any specified area or areas.
- (4) Every regulation made pursuant to subsection (1) shall name a date on which it comes into force that is at least 14 days after the date it is published in the Gazette.

2004, c.40, s.5.

Special licences

16 The director may issue to the employer of any person who is a handicapped employee a special licence, subject to such terms and conditions as the director may prescribe in the licence, authorizing the employment of that person by the employer at a wage to be specified by the director that is lower than the minimum wage fixed pursuant to section 15.1.

1976-77, c.36, s.16; R.S.S. 1978, c.L-1, s.16;
2004, c.40, s.6.

PART III Equal Pay

Equal pay

17(1) No employer or person acting on behalf of an employer shall discriminate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee, or vice versa, where such employees are employed by him for similar work which is performed in the same establishment under similar working conditions and the performance of which requires similar skill, effort and responsibility, except where such payment is made pursuant to a seniority system or merit system.

(2) No employer shall reduce the rate of pay to any of his employees in order to comply with this section.

(3) Where an employer has contravened subsection (1), he shall not thereafter be entitled to reduce the rate of pay to which an employee is entitled on the grounds that the work is subsequently performed only by employees of the same sex.

1976-77, c.36, s.17; R.S.S. 1978, c.L-1, s.17.

Inquiry by officer and report to director

18(1) Where the director receives a complaint or believes that an employer has violated section 17, he may appoint an officer to inquire into the matter.

(2) An officer appointed pursuant to subsection (1) shall:

- (a) endeavour to effect a settlement of the matter; and
- (b) report to the director on the matter.

1976-77, c.36, s.18; R.S.S. 1978, c.L-1, s.18.

Formal inquiry by Saskatchewan Human Rights Commission

19(1) Where the officer appointed pursuant to section 18 is unable to effect a settlement, the director may advise the chairperson of the human rights tribunal panel appointed pursuant to *The Saskatchewan Human Rights Code* and request the chairperson to appoint a human rights tribunal to conduct an inquiry into the matter.

(2) Nothing in subsection (1) prohibits the prosecution of an employer alleged to have violated section 17.

1976-77, c.36, s.19; R.S.S. 1978, c.L-1, s.19;
2000, c.26, s.40.

Procedure on inquiry

20 Where a request is made pursuant to section 19, the chairperson of the human rights tribunal panel shall appoint a human rights tribunal and sections 31 to 31.6 and 32 of *The Saskatchewan Human Rights Code* apply, with any necessary modification, to the inquiry.

2000, c.26, s.40.

Order to be complied with

21 Every person in respect of whom an order is made pursuant to section 20 shall comply with the order.

1976-77, c.36, s.21; R.S.S. 1978, c.L-1, s.21.

Offences and penalties

22(1) Every person who contravenes or fails to comply with a final order made pursuant to section 20 is guilty of an offence and liable on summary conviction:

- (a) subject to clause (b), to a fine of not more than \$2,000 for an offence; 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 \$5,000 for a second offence; and
 - (ii) to a fine of not more than \$10,000 for a third or subsequent offence.

(2) For the purpose of this section, a trade union or an employers' organization as defined in *The Saskatchewan Human Rights Code* shall be deemed to be a legal entity and any act or thing done or omitted to be done by an officer or agent of a trade union or an employers' organization who is acting within the scope of his authority on behalf of the trade union or employers' organization shall be deemed to be an act or thing done or omitted to be done by the trade union or employers' organization, as the case may be.

1976-77, c.36, s.22; R.S.S. 1978, c.L-1, s.22;
1994, c.39, s.10.

PART IV**Maternity Leave For Female Employees****Conditions for applications, etc.**

23(1) Every employee who:

- (a) is currently employed and has been in the employment of her employer for a total of at least 20 weeks in the 52 weeks immediately preceding the day on which the requested leave is to commence.
- (b) submits to her employer an application in writing for leave under this section at least four weeks before the day specified by her in the application as the day on which she intends to commence the leave; and
- (c) provides her employer with a certificate of a qualified medical practitioner certifying that she is pregnant and specifying the estimated date of birth;

shall be granted by her employer maternity leave from her employment with the employer in accordance with subsection (3).

(2) Notwithstanding subsection (1), an employer shall grant to an employee maternity leave from her employment with the employer in accordance with subsection (3) if the employee meets the requirements of clause (1)(a) and provides her employer with a certificate of a duly qualified medical practitioner:

(a) certifying that the employee is pregnant, specifying the estimated date of birth and certifying that there are bona fide medical reasons that require the employee to cease work immediately; or

(b) certifying that the employee was pregnant and that her pregnancy terminated on a specified date, not more than 14 days prior to the date of the certificate, due to a miscarriage or a stillbirth.

(3) The maternity leave to which an employee is entitled pursuant to subsections (1) and (2) shall consist of a period not exceeding 18 weeks commencing at any time during the period of 12 weeks immediately preceding the estimated date of birth.

(4) Where:

(a) an employee has failed to comply with clause (1)(b) but is otherwise entitled to maternity leave pursuant to subsection (1); and

(b) the employee 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;

the employee shall be granted by her employer maternity leave from her employment with the employer in accordance with subsection (5).

(5) The maternity leave to which an employee is entitled pursuant to subsection (4) shall consist of a period not exceeding 14 weeks commencing at any time during the period of eight weeks immediately preceding the estimated date of birth.

(6) Notwithstanding subsections (3) and (5), where 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.

(7) Where an employee to whom maternity leave has been granted in accordance with this section and her employer agree that the portion of the leave that follows the actual date of birth should be a period of less than six weeks, the employer may permit the employee to resume her employment at the expiration of a period agreed to by them.

1976-77, c.36, s.23; R.S.S. 1978, c.L-1, s.23;
1994, c.39, s.11.

Further period of leave

24 Where an employee who has been granted maternity leave by her employer pursuant to section 23:

- (a) is unable, for bona fide medical reasons, to return to her employment after the expiration of the maternity leave; and
- (b) provides her employer with a certificate of a qualified medical practitioner stating that, for bona fide medical reasons, she is not able to return to her employment at that time;

the employer shall grant to her any further period of leave, not exceeding six weeks, that is requested by her.

1976-77, c.36, s.24; R.S.S. 1978, c.L-1, s.24.

Employer may require commencement of maternity leave

25(1) Where the pregnancy of an employee would unreasonably interfere with the performance of the employee's duties, her employer may, if no opportunity exists to modify her duties or reassign her to another job with no loss of wages or benefits, require her to commence maternity leave not more than 13 weeks prior to the estimated date of birth.

(2) Where an employer requires an employee to commence maternity leave pursuant to subsection (1), the provisions of this Part apply *mutatis mutandis* to that maternity leave.

(3) In any prosecution alleging a violation of subsection (1) the onus shall be upon the employer to prove that the pregnancy of the employee would unreasonably interfere with her duties and that no opportunity exists to modify the employee's duties or to reassign the employee to another job.

1976-77, c.36, s.25; R.S.S. 1978, c.L-1, s.25;
1994, c.39, s.12.

Reinstatement after maternity leave

26(1) An employer who has granted maternity leave to an employee pursuant to this Part shall, at the expiration of the leave, reinstate the employee in the position occupied by the employee at the time the leave commenced, or in a comparable position, with no loss of accrued seniority or benefits or reduction in wages.

(2) For the purposes of seniority and rights of recall, being on maternity leave does not constitute a break in service, and seniority and rights of recall continue to accrue while an employee is taking maternity leave.

(3) Subject to subsection (4), an employee is entitled to continue participating in any benefit plan that is prescribed in the regulations for the purposes of this subsection while taking maternity leave if the employee pays contributions required by the plan.

(4) A benefit plan that does not permit the participation of employees in accordance with subsection (3) must be amended to permit that participation not later than three years after the day on which this section comes into force.

1994, c.39, s.13.

Employer not to dismiss pregnant employee; magistrate may order employer to comply

27(1) No employer shall dismiss, lay off, suspend or otherwise discriminate against an employee by reason of the fact that she:

- (a) is pregnant;
 - (b) is temporarily disabled because of pregnancy; or
 - (c) has applied for maternity leave in accordance with this Part.
- (2) In any prosecution alleging a violation of subsection (1) the onus shall be upon the employer to prove that the employee was dismissed, laid off, suspended or otherwise discriminated against for good and sufficient cause.
- (3) Where an employer is convicted of failure to comply with any provision of this Part, the convicting judge may, in addition to any other penalty imposed for the offence, order the employer to allow forthwith the employee such maternity leave as the employer ought to have granted to the employee or, if the conviction is for failing to reinstate an employee in her former employment after the employee has, pursuant to this Part, been granted leave, the convicting judge may order the employer to reinstate the employee in her employment under the same terms and conditions in which she was formerly employed and may further order the employer to pay to the employee her wages retroactive to such date as the convicting judge deems that the employee ought to have been reinstated in her former employment under the terms of this Part.

1976-77, c.36, s.27; R.S.S. 1978, c.L-1, s.27;
1994, c.39, s.14.

Notice to employer of intention to resume employment

28(1) An employee to whom maternity leave has been granted pursuant to this Part and who intends to resume her employment with her employer after the date of birth shall, at least four weeks prior to the day on which she intends to resume her employment, notify her employer of her intention to do so.

(2) No employer is required to allow an employee to whom maternity leave has been granted pursuant to this Part to resume her employment until after the employee has complied with subsection (1).

1976-77, c.36, s.28; R.S.S. 1978, c.L-1, s.28;
2001, c.6, s.3.

29 Repealed. 1994 c39 s15.

PART IV.1

Other Leave

Parental leave

29.1(1) An employer shall grant parental leave in accordance with subsection (2) to every employee who:

- (a) is currently employed and has been in the employment of the employer for a total of at least 20 weeks during the 52 weeks immediately preceding the day on which the requested leave is to commence;

- (a.1) is a parent of a newborn child or a newly adopted child; and
- (b) submits to the employer a written application for parental leave:
 - (i) at least four weeks before the day specified by the employee in the application as the day on which the employee intends to commence parental leave; or
 - (ii) in the case of an employee who is taking maternity leave pursuant to Part IV, at least four weeks before the day on which the employee was scheduled to return from maternity leave, which is deemed to be the day on which the employee intends to commence parental leave.
- (2) Subject to subsection (5), parental leave consists of the period described in subsection (2.1) to be taken during the 12 weeks before the estimated date of birth or the estimated date on which the child is to come into the employee's care, as the case may be, or the 52 weeks following the actual date of birth or the actual date on which the child comes into the employee's care.
- (2.1) The period of parental leave to which an employee is entitled is:
 - (a) not more than 34 consecutive weeks in the case of an employee who is entitled to maternity leave pursuant to Part IV or adoption leave pursuant to section 29.2; and
 - (b) not more than 37 consecutive weeks in the case of an employee who is not entitled to maternity leave pursuant to Part IV or adoption leave pursuant to section 29.2.
- (3) An employer shall, on application, grant to an employee who fails to comply with clause (1)(b) parental leave commencing on a day within three weeks after the date of birth of the child or the day on which the child comes into the employee's care, as the case may be, for the period described in clause (2.1)(a) or (b).
- (4) Section 26, subsection 27(3) and section 28 apply, with any necessary modification, to parental leave pursuant to this section.
- (5) An employee who wishes to take leave pursuant to Part IV and also take leave pursuant to this section shall take the two leaves consecutively.

1994, c.39, s.16; 2001, c.6, s.4.

Adoption leave

- 29.2(1)** An employer shall grant adoption leave in accordance with subsection (2) to an employee who:
 - (a) is currently employed and has been in the employment of the employer for a total of at least 20 weeks in the 52 weeks immediately preceding the day on which the requested leave is to commence;
 - (b) submits to the employer a written application for leave at least four weeks prior to the day on which the child comes into the employee's care; and
 - (c) is to be the primary caregiver of the adopted child during the period of the leave.
- (2) Adoption leave consists of a period of not more than 18 weeks commencing on the day the child becomes available for adoption.

(3) Where an employee is unable to comply with clause (1)(b), the employee shall give notice to the employer equivalent to the notice given to the adoptive parents by the Department of Community Resources and Employment, the adoption agency or the birth parent, as the case may be.

(4) Section 26, subsection 27(3) and section 28 apply, *mutatis mutandis*, to adoption leave under this section.

1979-80, c.84, s.8; 1994, c.39, s.17; 2004, c.65, s.13.

Bereavement leave

29.3(1) In this section:

(a) **“immediate family”** means a spouse, parent, grandparent, child, brother or sister of an employee or of a spouse;

(b) **“spouse”** means:

(i) the wife or husband of an employee; or

(ii) a person with whom an 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 they are the parents of a child.

(2) An employer shall grant a leave of up to five working days without pay and without dismissal or discipline to every employee who, after three months of continuous employment with the employer, experiences the death of a member of his immediate family.

(3) Any leave granted pursuant to subsection (2) must be taken within the period commencing one week before and ending one week after the funeral relating to the death in respect of which the leave is granted.

(4) Section 26 and subsection 27(3) apply, *mutatis mutandis*, to bereavement leave under this section.

1979-80, c.84, s.8; 1994, c.39, s.18.

PART V Annual Holidays

Interpretation of Part

29.4 In this Part, **“year of employment”** means a period of 52 consecutive weeks in which an employee’s employment is not broken by a period greater than 26 consecutive weeks.

1994, c.39, s.19.

Annual holiday to which employee is entitled; “accumulated year of employment”

30(1) Every employee to whom this Act applies is entitled:

- (a) subject to clause (b), to an annual holiday of three weeks after each year of employment with any one employer;
- (b) to an annual holiday of four weeks after the completion of ten years of employment with one employer and after the completion of each subsequent year of employment with that employer.

1976-77, c.36, s.30; R.S.S. 1978, c.L-1, s.30;
1979-80, c.84, s.9; 1994, c.39, s.20.

(2) **Repealed.** 1994, c.39, s.20.

(3) **Repealed.** 1994, c.39, s.20.

Manner of taking annual holiday

31(1) Where an employee is entitled to an annual holiday under section 30:

- (a) the employer shall permit the employee to take the entire annual holiday to which he is entitled within 12 months after the date on which he becomes entitled to it;
- (b) the employee shall be permitted to take the entire annual holiday to which he is entitled in one continuous and uninterrupted period;
- (c) notwithstanding clause (b), the employee may, not later than the day on which he becomes entitled to an annual holiday under section 30, give his employer written notice that he desires to take his annual holiday in a manner other than in one continuous and uninterrupted period but in periods of not less than one week and, where such notice is given, the employer shall permit the employee to take the annual holiday in the manner mentioned in the notice.

(2) Clauses (1)(b) and (c) do not apply where the director approves, in writing, an arrangement pursuant to which the business of an employer is to be closed in order that his employees may take holidays at that time.

1976-77, c.36, s.31; R.S.S. 1978, c.L-1, s.31.

Notice of holiday period

32 Every employer shall give to each employee who is entitled to an annual holiday under section 30 not less than four weeks' written notice of the commencement of his holiday period or each of his holiday periods, as the case may be, unless otherwise agreed in writing between the employer and the trade union representing the employee or, where there is no such trade union, between the employer and the employee.

1976-77, c.36, s.32; R.S.S. 1978, c.L-1, s.32.

Remuneration payable to employee in respect of annual holiday

33(1) An employee is entitled to receive annual holiday pay in the following amounts:

- (a) if the employee is entitled to an annual holiday pursuant to clause 30(1)(a), three fifty-seconds of the employee's total wages for the year of employment immediately preceding the entitlement to the annual holiday;
- (b) if the employee is entitled to an annual holiday pursuant to clause 30(1)(b), four fifty-seconds of the employee's total wages for the year of employment immediately preceding the entitlement to the annual holiday.

(1.1) With respect to an employee who is entitled to an annual holiday pursuant to section 30 but who does not take that annual holiday, the employer shall pay to the employee the employee's annual holiday pay not later than 11 months after the day on which the employee becomes entitled to the annual holiday.

(2) Where an employee takes his holiday in one continuous period, the annual holiday pay payable to the employee shall be paid to the employee by his employer during the period of fourteen days immediately preceding the commencement of the holiday period.

(3) Where an employee has given his employer notice under clause (c) of subsection (1) of section 31 that he desires to take his annual holiday in a manner other than in one continuous period, the annual holiday pay payable to the employee in respect of each of the several portions in which the employee desires to take his holidays shall be paid to the employee by his employer during the period of fourteen days immediately preceding the commencement of each portion of the holiday respectively.

(4) Where an employee has scheduled a period as an annual holiday at a time agreed to by the employer and the employer does not permit the employee to take the annual holiday as scheduled, the employer shall reimburse the employee for any monetary loss suffered by the employee as a result of the cancellation or postponement of the annual holiday.

1976-77, c.36, s.33; R.S.S. 1978, c.L-1, s.33;
1994, c.39, s.21.

Procedure when public holiday occurs during annual holiday

34 Where one or more public holidays as defined in Part VI of this Act occur during the period of any annual holiday that an employee has been permitted by his employer to take under this Act:

- (a) the period of that annual holiday shall be increased by one working day in respect of each such public holiday; and
- (b) the employer shall pay to the employee, in addition to the annual holiday pay that the employee is entitled to receive, the wages that he is entitled to be paid for each such public holiday.

1976-77, c.36, s.34; R.S.S. 1978, c.L-1, s.34.

Termination of employment

35(1) Where the employment of an employee terminates, the employer of the employee shall, within fourteen days after the effective date of termination, pay to the employee the annual holiday pay to which he is entitled pursuant to this Act.

(2) Where the employment of an employee terminates, the employee is entitled to annual holiday pay calculated in accordance with section 33 with respect to all total wages earned by the employee with respect to which the employee has not previously been paid annual holiday pay.

1976-77, c.36, s.35; R.S.S. 1978, c.L-1, s.35;
1994, c.39, s.22.

Period of notice not part of annual holiday

36 Where an employer or an employee gives notice of termination of the employment of the employee:

- (a) the period or any part of the period of the notice shall not form part of any annual holiday to which the employee is entitled; and
- (b) payment to the employee of all or part of the annual holiday pay on account of any annual holiday to which he is entitled is not payment for the period of notice referred to in clause (a).

1976-77, c.36, s.36; R.S.S. 1978, c.L-1, s.36.

Agreement to forego annual holiday

37(1) Notwithstanding any other provision of this Act, an employer and an employee may enter into a written agreement to the effect that, because of shortage of labour, the employee will not take an annual holiday to which he is entitled under section 30.

(2) Where a written agreement made by an employer and employee pursuant to subsection (1) is filed with the director:

- (a) the employer is not subject to section 31 with respect to that employee; and
- (b) the employer shall, within twelve months after the date on which the employee became entitled to an annual holiday, pay to the employee the annual holiday pay to which he is entitled in respect of the annual holiday.

1976-77, c.36, s.37; R.S.S. 1978, c.L-1, s.37.

PART VI

Public Holidays

Interpretation

38 In this Part “**public holiday**” means New Year’s Day, Good Friday, Victoria Day, Canada Day, Saskatchewan Day, Labour Day, Thanksgiving Day, Remembrance Day or Christmas Day.

1976-77, c.36, s.38; R.S.S. 1978, c.L-1, s.38;
1994, c.39, s.23.

Public holiday pay

39(1) The minimum sum of money to be paid for a public holiday or for another day designated for observance of the public holiday by an employer to any employee who does not work on that day:

- (a) where the employer pays to the employee the employee's regular wages for the period that includes that day, is equal to those wages;
- (b) in any other case, is the amount A calculated in accordance with the following formula:

$$A = \frac{W}{20}$$

where W is the total of the wages earned by the employee during the four weeks immediately preceding the public holiday, exclusive of overtime.

(2) The minimum sum of money to be paid for a public holiday or for another day designated for observance of the public holiday by an employer to any employee who works on that day is the total of:

- (a) the amount to which the employee would be entitled pursuant to subsection (1) if the employee did not work on that day; and
- (b) the amount of wages, calculated at a rate that is 1.5 times the employee's regular rate of wages, for the time worked.

(3) For the purposes of this section, where an employee takes an annual holiday during the four weeks immediately preceding a public holiday, "**wages**" includes the amount of annual holiday pay that is payable with respect to any annual holidays actually taken during that period.

1994, c.39, s.24.

Agreement or order respecting observance of holiday

40 Notwithstanding any other provision contained in this Part:

- (a) where a majority of the employees in an appropriate unit of employees of an employer are represented by a trade union for the purpose of bargaining collectively, the employer and the trade union may agree in writing; or
- (b) where any of the employees of an employer are not so represented and the director is satisfied that the employer and a majority of those employees desire that an order be made hereunder, the director may order;

that any public holiday shall be observed by such employees on a specified working day other than the public holiday and in such case the day so specified shall be deemed to be that holiday for the purposes of this Part.

1976-77, c.36, s.40; R.S.S. 1978, c.L-1, s.40.

Lieutenant Governor in Council may provide for minimum sum of money

41 Notwithstanding section 39, the Lieutenant Governor in Council may by regulation require that the minimum sum of money to be paid for public holidays to any specified class or classes of employees who do not work or who work on any or all of those days shall be computed on such basis as may be prescribed in the regulations.

1976-77, c.36, s.41; R.S.S. 1978, c.L-1, s.41.

PART VII Employees' Wages

42 Repealed. 1994 c39 s25.

Notice to employee of discharge

43 Except for just cause other than shortage of work, no employer shall discharge or lay off an employee who has been in his service for at least three continuous months without giving that employee at least:

- (a) one week's written notice, if his period of employment is less than one year;
- (b) two weeks' written notice, if his period of employment is one year or more but less than three years;
- (c) four weeks' written notice, if his period of employment is three years or more but less than five years;
- (d) six weeks' written notice, if his period of employment is five years or more but less than 10 years;
- (e) eight weeks' written notice, if his period of employment is 10 years or more.

1979-80, c.84, s.10.

Payment to employee in case of discharge or lay-off

44(1) Where an employer discharges or lays off an employee in accordance with section 43, he shall pay to the employee, in respect of the period of the notice given under that section, the sum earned by the employee during that period or a sum equivalent to the employee's normal wages for the period of the notice exclusive of overtime, whichever is the greater.

(2) Where an employer, contrary to section 43, discharges or lays off an employee without having given the notice required by that section, he shall pay to the employee, in respect of the minimum period of notice required by section 43, a sum equivalent to the employee's normal wages for that period, exclusive of overtime.

(3) Where the wages of an employee, exclusive of overtime, vary from week to week, his normal wages for one week shall, for the purposes of subsection (1) or (2), be deemed to be the equivalent of his average weekly wage, exclusive of overtime, for the four weeks he worked immediately preceding the date on which notice of termination of employment or lay-off was given or, where such notice was not given, the date on which he was discharged or laid off.

1976-77, c.36, s.44; R.S.S. 1978, c.L-1, s.44;
1979-80, c.84, s.11.

Notice of group termination

44.1(1) In addition to the requirements of sections 43 and 43.1 but subject to subsection (3), an employer who intends to terminate the employment of 10 or more employees in an establishment 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 trade union that is:
 - (i) certified to represent any employees whose employment will be terminated; or
 - (ii) recognized by the employer as bargaining agent for any employees whose employment will be terminated.
- (2) The written notice required by 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 time prescribed in the regulations.
- (3) The notice required by subsection (1) may be given concurrently with the notice required by section 43 or 43.1.

1994, c.39, s.28.

Dismissal, etc., for illness or injury prohibited

44.2(1) Except for just cause unrelated to injury or illness, no employer shall dismiss, suspend, lay off, demote or discipline an employee because of absence due to the illness or injury of the employee or illness or injury of a member of the employee's immediate family as defined in section 29.3 who is dependent on the employee if:

- (a) the employee has been in the employer's service for at least 13 consecutive weeks prior to the absence;
 - (b) either:
 - (i) subject to subsection (1.2), in the case of serious illness or injury, the absence does not exceed 12 weeks in a period of 52 weeks; or
 - (ii) in the case of illness or injury that is not serious, the absences do not exceed a total of 12 days in a calendar year, except where it can be demonstrated that the employee has a record of chronic absenteeism and there is no reasonable expectation of improved attendance; 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.
- (1.1) Notwithstanding subsection (1) and subject to subsection (1.2), except for just cause, no employer shall dismiss, suspend, lay off, demote or discipline an employee because of absence if for the period of absence the employee is receiving benefits or is in the waiting period for benefits pursuant to section 23.1 of the *Employment Insurance Act* (Canada).

(1.2) If subsections (1) and (1.1) both apply, the combined periods of absence must not exceed 16 weeks in a period of 52 weeks.

(2) The period of absence permitted by clause (1)(b) shall be extended to 26 weeks where the employee is receiving compensation pursuant to *The Workers' Compensation Act, 1979*.

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

1994, c.39, s.28; 2004, c.40, s.7.

Reassignment, etc., of disabled employee

44.3(1) Where an employee becomes disabled and the disability would unreasonably interfere with the performance of the employee's duties, the employer shall, where reasonably practicable, modify the employee's duties or reassign the employee to another job.

(2) In any prosecution alleging a contravention of this section, the onus is on the employer to prove that it is not reasonably practicable to modify the employee's duties or reassign the employee to another job.

1994, c.39, s.28.

More favourable provisions in contract of service or custom to prevail

45 Nothing in section 43 affects any provision in a contract of service, or any recognized custom, by virtue of which an employee is entitled to a longer notice of termination of employment or lay off or to more favourable compensation in respect of the period of any such notice than is provided for by that section.

1976-77, c.36, s.45; R.S.S. 1978, c.L-1, s.45;
1979-80, c.84, s.12.

Provision of benefits

45.1 Where an employer provides a benefit to employees who work at least 30 hours per week or any other number of hours prescribed in the regulations, the employer shall provide benefits in accordance with the regulations to all eligible employees.

1994, c.39, s.30.

Practice respecting payment of wages to be continued

46 Subject to section 47, no employer shall, unless authorized by the minister, pay wages to his employees:

(a) less frequently; or

(b) later, in relation to the period during which the wages are earned;

than he paid wages to his employees immediately before March 1, 1961.

1976-77, c.36, s.46; R.S.S. 1978, c.L-1, s.46.

Request for pay every seven days

47(1) Upon the request of a majority of employees employed at an hourly, daily or weekly wage in or in connection with a designated unit of the business of their employer, the employer shall, not less frequently than at the end of every period of seven days, pay to every such employee the entire amount of wages to which he is entitled up to a day not more than six days before the date of payment.

(2) In the case of dispute respecting the validity of a request under subsection (1) or the appropriateness of a designated unit, the director shall determine whether the request is valid or the unit is appropriate.

1976-77, c.36, s.47; R.S.S. 1978, c.L-1, s.47.

Time for payment of wages in cases not provided for

48(1) Subject to subsections (2), (3) and (5), every employer other than an employer to whom section 46 to 47 applies shall, not less frequently than semi-monthly, or at the end of every period of 14 days, pay to each of his employees the entire amount of wages to which he is entitled up to a day not more than six days before the date of payment.

(1.1) Where an employee is paid his or her holiday pay together with the employee's wages at each regular payment of wages, the employer shall, not later than at the time when wages are paid, provide to the employee a written statement that:

- (a) specifies the amount paid as wages and the amounts paid as annual holiday pay and public holiday pay, if any; and
- (b) meets any requirements prescribed in the regulations.

(1.2) Wages and other amounts that are not included in a written statement pursuant to subsection (1.1) are deemed not to have been paid unless the employer can establish that the employee was regularly informed of the amounts of annual holiday pay and public holiday pay, if any, that were paid to the employee at each regular payment of wages.

(2) Every employee who terminates his employment or whose employment is terminated for any reason shall be paid his wages in full by his employer within 14 days after the day on which the termination of employment takes effect.

(3) Subject to subsection (4), all wages of employees shall, at the employer's discretion, be paid to them during their working hours or delivered to their places of residence or sent to them by mail in envelopes addressed to their places of residence.

(4) Where an employee, for reasons beyond the control of the employer or the employee, is at the time fixed for payment of the employee's wages absent from the place where his wages are payable, his pay shall be sent by registered mail forthwith to his last known address.

(5) Notwithstanding subsections (3) and (4), upon an agreement between the employer and the employee, the employer shall deposit the employee's wages in an account of a chartered bank or credit union of the employee's choice.

1976-77, c.36, s.48; R.S.S. 1978, c.L-1, s.48;
1994, c.39, s.31.

Manner of payment

49(1) All wages shall be paid in Canadian currency or by cheque drawn upon a chartered bank or a credit union or deposited to the employee's account in a chartered bank or credit union, and where a contract between an employee and his employer contains a provision for payment in any other manner that provision is illegal and void.

(2) Where an employer issues a cheque in payment of wages that is not honoured, he is guilty of a violation of this Act.

1976-77, c.36, s.49; R.S.S. 1978, c.L-1, s.49.

Restricting provision in contract void

50 Where a contract made between an employee and his employer contains a provision respecting the place where or the manner in which or the person with whom the whole or any part of the wages of the employee shall be expended, that provision is illegal and void.

1976-77, c.36, s.50; R.S.S. 1978, c.L-1, s.50.

Payment of undisputed part of disputed wage claim

51(1) In the case of a dispute respecting wages the employer shall give written notice to the employee of the amount admitted to be due, and he shall forthwith pay that amount to the employee unconditionally.

(2) Acceptance by an employee of a payment pursuant to subsection (1) does not constitute a waiver of the remainder of the amount claimed by him.

1976-77, c.36, s.51; R.S.S. 1978, c.L-1, s.51;
1984-85-86, c.16, s.13.

Wages payable notwithstanding industrial dispute

52(1) Subject to subsection (2), in the event of a stoppage of work as a result of an industrial dispute, the full amount of wages of an employee unpaid at the time of the stoppage is due on the day on which the amount would customarily be payable in accordance with this Act.

(2) Where subsection (1) applies and the director is satisfied that an employer is prevented from paying wages on the day they would customarily be paid due to factors beyond the employer's control, the director may authorize the employer to pay wages on another day to be specified by the director.

1976-77, c.36, s.52; R.S.S. 1978, c.L-1, s.52.

Responsibility of certain contractors with respect to wages of subcontractors' employees

53 Where an employer or a contractor contracts with any other person for the performance of the employer's or contractor's work, or any part thereof, the employer or contractor shall provide by the contract that the employees of that other person shall be paid the wages to which they are entitled according to law, and if that other person fails to pay such wages to his employees, the employer or contractor, as the case may be, is liable to the employees to the extent of the work performed under the contract as if the employees were employed by the employer or contractor.

1976-77, c.36, s.53; R.S.S. 1978, c.L-1, s.53.

Third party demand

54(1) Without limiting the generality of section 82, in this section and in section 55, “wages” includes overtime, annual holiday pay, public holiday pay and pay in lieu of notice.

(2) Subject to the regulations, the director may serve a third party demand on a person where the director has knowledge or reasonable grounds to believe or suspects that:

- (a) an employer has failed or is likely to fail to pay wages to an employee as required by this Act; and
- (b) the person on whom the demand is served is or is about to become a third party.

(3) Subject to subsection (4) and section 55.1, a third party demand must require the payment of the lesser of:

- (a) the amount of the indebtedness of the third party to the employer; and
- (b) the amount specified in the demand.

(4) The amount required by a third party demand to be paid to the director must not exceed the director’s estimate of the total amount of all wage claims against the employer.

(5) Service of a third party demand on the third party binds any debt due when the demand is served or accruing due while the demand is in force from the third party to the employer to the extent of the amount set out in the demand.

(6) The director may serve a third party demand pursuant to subsection (2) notwithstanding that:

- (a) the director has not issued a wage assessment against the employer; or
- (b) a wage assessment has been issued and:
 - (i) the appeal period has expired; or
 - (ii) the person against whom the wage assessment was issued has commenced an appeal pursuant to section 62 or 62.3 and:
 - (A) the appeal is still pending; or
 - (B) the appeal has been dismissed.

(7) Unless it is revoked by the director, a third party demand remains in force for:

- (a) 90 days after the day on which the demand is served; or
- (b) any longer period that the director may specify in the demand.

(8) Where a third party demand has expired or been revoked, but the circumstances set out in subsection (2) exist, the director may serve a further third party demand on the same third party.

(9) The receipt of the director for moneys paid pursuant to a third party demand is a good and sufficient discharge of the liability of the third party to the employer to the extent of the payment by the third party pursuant to the demand.

(10) Where a third party is served with a third party demand and subsequently discharges any liability to the employer or fails to comply with the third party demand, the third party is liable to the director to the extent of the lesser of:

- (a) the amount of liability discharged to the employer; or
- (b) the amount specified in the demand.

(11) The amount mentioned in clause (10)(a) or (b) may be recovered from the third party in accordance with section 62.4.

1994, c.39, s.32.

Moneys received by director pursuant to third party demand

55(1) Where the director receives moneys pursuant to a third party demand that is served after a wage assessment is issued, the director shall:

- (a) where the employer and the employees agree on the amount of the unpaid wages due and owing to the employees, pay to the employees the amount agreed on;
- (b) where the employer does not appeal the wage assessment, pay to the employees the amount of their outstanding wages, or a pro-rata share, after the expiration of the appeal period; or
- (c) where the employer appeals the wage assessment, pay to the employees the amount of their outstanding wages, or a pro-rata share, on the final determination of the appeal.

(2) Where the director issues a third party demand prior to issuing a wage assessment against the employer, the director shall, promptly after receiving moneys pursuant to the demand:

- (a) where the employer and the employees agree on the amount of the unpaid wages due and owing to the employees, pay to the employees the amount agreed on; or
- (b) where the employer and the employees do not agree on the amount of the unpaid wages due and owing to the employees, issue a wage assessment against the employer, and:
 - (i) where the employer does not appeal the wage assessment, pay to the employees the amount of their outstanding wages, or a pro-rata share, after the expiration of the appeal period; or
 - (ii) where the employer appeals the wage assessment, pay to the employees the amount of their outstanding wages, or a pro-rata share, on the final determination of the appeal.

1994, c.39, s.32.

Dispute of liability by third party

55.1(1) Where a third party disputes his or her liability to an employer, the third party may apply to a judge of the Court of Queen's Bench to set aside the third party demand, and the application is deemed to be an application pursuant to section 10 of *The Attachment of Debts Act*.

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

- (a) the third party demand is deemed to be a garnishee summons;
- (b) the third party is deemed to be a garnishee;
- (c) the director, acting on behalf of employees, is deemed to be a plaintiff; and
- (d) the employer is deemed to be a defendant.

(3) Sections 15 to 21 of *The Attachment of Debts Act* apply, with any necessary modification, where a third party disputes his or her liability pursuant to subsection (1).

1994, c. 39, s.32.

Trust for wages due

56(1) In this section:

- (a) **“purchase-money security interest”** means:
 - (i) a security interest that is taken or reserved by a seller of personal property to secure payment of all or part of its sale price; or
 - (ii) a security interest that is taken by a person who gives value for the purpose of enabling the debtor to acquire rights in or to the personal property, to the extent that the value is applied to acquire such rights;
- (b) **“security interest”** means an interest in property that secures payment or performance of an obligation.

(1.1) Notwithstanding any other Act, every employer shall hold all wages accruing due or due to an employee in trust for the employee for the payment of those wages in the manner and at the time provided under this Act and the regulations, and, in the event that such wages are not held in trust, the employer is deemed to hold an amount equal to the amount of wages in trust for the employee.

(1.2) Wages accruing due or due to an employee are deemed to be secured by a security interest upon the property and assets of the employer or his estate, whether or not such property or assets are subject to other security interests, and the security interest for wages is payable in priority to any other claim or right in the property or assets, including any claim or right of the Crown in right of Saskatchewan, and, without limiting the generality of the foregoing, that priority extends over every security interest, lien, charge, encumbrance, mortgage, assignment, including an assignment of book debts, debenture or other security, whether perfected within the meaning of *The Personal Property Security Act, 1993* or not, made or given, accepted or issued before or after the wages accrued due, without registration or other perfection of the deemed security interest for wages.

(1.3) Notwithstanding subsection (1.2), the charge mentioned in that subsection does not take priority over:

- (a) a purchase-money security interest that is:
 - (i) taken prior to the wages' accruing due;
 - (ii) registered within the time periods mentioned in section 22 of *The Personal Property Security Act, 1993*;
 - (b) a mortgage of real property granted by an employer prior to the wages' accruing due;
 - (c) the interest of a seller under an agreement for sale of real property or under a mortgage back arrangement or the interest of a person who gives value for the purpose of enabling an employer to acquire rights in real property, to the extent that the value is applied to acquire such rights.
- (2) Notwithstanding subsections (1.1) to (1.3), an employee is entitled to recover from his employer all wages owing and not paid to the employee by pursuing any lawful remedy provided for the recovery of wages and no employer shall, in an action, suit or other proceeding brought against him by an employee for the recovery of wages, set off any amount against, or claim any reduction of, the employee's demand by reason of the delivery to him of goods, wares or merchandise on account of wages.
- (3) Where an employer has failed or neglected to hold wages in trust as provided by subsection (1.1) and the assets of the employer are not sufficient to pay in full the trust moneys owing to each of his employees, the employees shall share amongst themselves the assets of the employer on a *pro rata* basis.
- (4) Notwithstanding subsections (1) to (3), in a case referred to in subsection (3), the director of a corporation who is an employee of the corporation is not entitled to the benefit provided to employees by this section until such time as the claims for wages of the other employee or employees of the corporation have been satisfied.

1976-77, c.36, s.56; R.S.S. 1978, c.L-1, s.56;
1980-81, c.63, s.5; 1993, c.P-6.2, s.80.

No right of action for goods supplied

57 No employer shall bring or maintain an action, suit or other proceeding against an employee for goods, wares or merchandise sold, delivered or supplied to the employee while in his employment on account of wages.

1976-77, c.36, s.57; R.S.S. 1978, c.L-1, s.57.

Voluntary purchases by employee

58(1) Notwithstanding any other provision of this Act, where an employee voluntarily purchases from his employer any goods, wares or merchandise, the employer may deduct from the wages of the employee any amounts from time to time payable by the employee to the employer in respect of goods, wares or merchandise so purchased, and no action, suit or other proceeding shall be brought or maintained by the employee against his employer in respect of any deduction so made.

(2) Notwithstanding any other provision of this Act, in any action, suit or other proceeding brought by an employee against his employer for the recovery of money due for labour or services, the employer may set off against, or claim in reduction of, the employee's demand any amount payable by the employee to the employer in respect of goods, wares or merchandise so purchased.

(3) Notwithstanding any other provision of this Act, an employer is entitled to recover by action any amount payable to him in respect of goods, wares or merchandise purchased by an employee in accordance with subsection (1).

1976-77, c.36, s.58; R.S.S. 1978, c.L-1, s.58.

Deductions from wages

59 Nothing in this Act prohibits an employer from making deductions from the wages of an employee that may lawfully be deducted.

1976-77, c.36, s.59; R.S.S. 1978, c.L-1, s.59.

Wage assessment

60(1) Without limiting the generality of section 82, in this section and in sections 61 to 62.4, "**wages**" includes overtime, annual holiday pay, public holiday pay, pay in lieu of notice, monetary losses described in subsection 33(4) and transportation costs described in subsection 44(2.5).

(2) The director may issue a wage assessment:

- (a) against an employer where the director has knowledge or has reason to believe or suspects that an employer has failed or is likely to fail to pay wages as required by this Act; or
- (b) against a corporate director where the director has knowledge or has reason to believe or suspects that the corporate director is liable for wages in accordance with section 63.

(3) The director shall issue a wage assessment against an employer where:

- (a) the director has served a third party demand;
- (b) the third party has paid money to the director in response to the third party demand;
- (c) the director has not already issued a wage assessment against the employer in accordance with subsection (2); and
- (d) there is no agreement pursuant to clause 55(2)(a).

(4) Where the director has issued a wage assessment pursuant to subsection (2) or (3), the director shall cause the wage assessment to be served on the employer or corporate director named in the wage assessment and on each employee who is affected by the wage assessment.

(5) A wage assessment must:

- (a) indicate the amount claimed against the employer or corporate director;

- (b) direct the employer or corporate director to:
 - (i) pay the amount claimed within 21 days after the date of service of the wage assessment; or
 - (ii) commence an appeal pursuant to section 62; and
 - (c) in the case of a wage assessment issued pursuant to subsection (3), set out the amount paid to the director by the third party.
- (6) The director may, at any time, amend or revoke a wage assessment.

1994, c.39, s.33.

Adjudicators

61(1) The Lieutenant Governor in Council, on the recommendation of the minister after consultation with labour organizations and employer associations, shall establish a list of adjudicators who are designated to hear appeals from wage assessments.

(2) In addition to any powers conferred on the adjudicators by this Act, the adjudicator has:

- (a) the powers of a commissioner pursuant to *The Public Inquiries Act*; and
- (b) any powers conferred on adjudicators by the regulations.

1994, c.39, s.33.

Commencement of appeal to adjudicator

62(1) An employer or corporate director who disputes liability for the amount stated in a wage assessment, or an employee who disputes the amount of wages owing as set out in a wage assessment, may serve a notice of appeal on the registrar of appeals within 21 days after the date of service of the wage assessment.

(2) A notice of appeal must set out the grounds of appeal.

(3) Except in cases where moneys have been paid in pursuant to a third party demand, where the appellant is an employer or a corporate director, the employer or corporate director shall deposit with the registrar of appeals the amount set out in the wage assessment or any other amount that is prescribed in the regulations.

(4) On the final determination of an appeal, the deposit:

- (a) shall be returned to the employer or corporate director if the determination is in favour of the employer or corporate director; or
- (b) shall be applied to the wage claims of the employees if the determination is in favour of the employees.

(5) On receipt of a notice of appeal and on the deposit of the required amount by the appellant, the registrar of appeals shall:

- (a) select an adjudicator from the list mentioned in section 61;

- (b) set a time, date and place for the appeal; and
- (c) give written notice of the time, date and place for the hearing of the appeal to:
 - (i) the appellant;
 - (ii) the adjudicator;
 - (iii) the director; and
 - (iv) each employee on whose behalf the wage assessment is issued or, if an employee is the appellant, the employer or corporate director.
- (6) The registrar of appeals shall give the adjudicator a copy of the wage assessment and a copy of the notice of appeal.
- (7) The copy of the wage assessment provided pursuant to subsection (6) 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.

1994, c.39, s.33.

Hearing by adjudicator

- 62.1(1)** An adjudicator who is selected pursuant to subsection 62(5) shall conduct a hearing of the appeal.
- (2) Subject to any regulations made pursuant to section 84, the adjudicator may determine the procedures by which the 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 adjourn the hearing of an appeal from time to time and for any period that the adjudicator considers necessary.
- (5) Notwithstanding that a person who is directly affected by a hearing is neither present nor represented at the hearing, where notice of the hearing has been given to the person pursuant to subsection 62(5), the adjudicator may proceed with the hearing and make any decision as though that person were present.
- (6) *The Arbitration Act, 1992* does not apply to adjudications conducted pursuant to this Act.

1994, c.39, s.33.

Decision of adjudicator

- 62.2(1)** Within 30 days after a hearing, the adjudicator shall:

- (a) either:
 - (i) dismiss the appeal and confirm the amount claimed in the wage assessment; or
 - (ii) allow the appeal and:
 - (A) vary the amount claimed in the wage assessment; or
 - (B) revoke the wage assessment; and

- (b) provide written reasons for the decision to the registrar of appeals.
- (2) The adjudicator:
 - (a) may award interest at a rate prescribed in the regulations; and
 - (b) shall not award costs against any of the parties.
- (3) On receipt of the decision from the adjudicator, the registrar of appeals shall promptly serve a copy of the decision on the director, the appellant and:
 - (a) on each employee who is directly affected by the decision; or
 - (b) where the appellant is an employee, on the employer or corporate director.

1994, c.39, s.33.

Further appeals

- 62.3(1)** An employer, a corporate director, an employee named in a wage assessment or the director on behalf of employees may, by notice of motion, appeal a decision of the adjudicator on a question of law or of jurisdiction to a judge of the Court of Queen's Bench within 21 days after the date of the decision.
- (2) An employer, a corporate director, an employee named in a wage assessment or the director on behalf of employees may, with leave of a judge of the Court of Appeal, appeal the decision of a judge of the Court of Queen's Bench on a question of law or of jurisdiction to the Court of Appeal within 30 days after the date of the decision.
- (3) Unless otherwise ordered by a judge of the Court of Queen's Bench, or in the case of an appeal taken pursuant to subsection (2), a judge of the Court of Appeal, enforcement of the decision of the adjudicator or the decision of the judge of the Court of Queen's Bench is not stayed by the appeal.
- (4) The record of an appeal consists of:
- (a) the wage assessment;
 - (b) the notice of appeal served on the registrar of appeals;
 - (c) the written decision of the adjudicator;
 - (d) the notice of motion commencing the appeal to the Court of Queen's Bench; and
 - (e) in an appeal to the Court of Appeal, the decision of the Court of Queen's Bench and the notice of appeal to the Court of Appeal.

1994, c.39, s.33.

Director's certificate

62.4(1) The director may issue a certificate setting out the amount of wages owed to employees, together with interest awarded by an adjudicator or a judge, where:

- (a) 21 days have elapsed after the date of service of a wage assessment and no notice of appeal has been served on the registrar of appeals in accordance with section 62;
 - (b) the adjudicator has provided written reasons for the decision in accordance with section 62.2 and a judge has not stayed the effect of that decision in accordance with subsection 62.3(3); or
 - (c) the stay granted by a judge in accordance with subsection 62.3(3) has expired.
- (2) The director may issue a certificate setting out the amount of a third party's liability to the director pursuant to subsection 54(10).
- (3) A certificate issued pursuant to subsection (1) or (2) may be filed with a local registrar of the Court of Queen's Bench.
- (4) A certificate filed pursuant to subsection (3) has the same force and effect as if it were a judgment obtained in the Court of Queen's Bench for the recovery of a debt.

1994, c.39, s.33.

Directors of corporation liable for wages

63(1) Notwithstanding any other provision in this Act or any provision in any other Act, the directors of a corporation are jointly and severally liable to an employee of the corporation for all debts due for services performed for the corporation, not exceeding six months' wages, while they are the directors.

(1.1) For the purposes of this section, "**debts due for services performed for the corporation**" means all remuneration payable by an employer to an employee pursuant to this Act and, without limiting the generality of the foregoing, includes wages, annual holiday pay, public holiday pay and pay in lieu of notice.

(2) to (4) **Repealed.** 1994, c.39, s.34.

1976-77, c.36, s.63; R.S.S. 1978, c.L-1, s.63;
1979-80, c.92, s.44; 1994, c.39, s.34.

64 Repealed. 1994, c.39, s.35.

65 Repealed. 1994, c.39, s.35.

PART VIII
Administration

Power to inspect records

66 The minister or any person acting on behalf of and with the authority of the minister may at any reasonable time:

- (a) inspect and examine all books, payrolls and other records of any employer that in any way relate to the wages or hours of labour of any employees of the employer or the conditions of their employment and may take extracts from or make copies of any entries in such books, payrolls and records;
- (b) require any employer to verify the entries in his records by statutory declaration or in any other manner as the minister or his duly authorized representative may require;
- (c) require any person to deliver within a stated period, at a designated place, and in a form acceptable to the minister or his duly authorized representative, any information and records as the minister or his representative may deem necessary to ascertain whether this Act and any orders or regulations made under this Act are being or have been complied with; and
- (d) enter any place in which an employee works for an employer, for the purpose of ascertaining whether this Act is being complied with.

1976-77, c.36, s.66; R.S.S. 1978, c.L-1, s.66.

Investigations and inquiries

67 The minister or any person appointed by him for the purpose may conduct an inquiry or investigation into any matter or thing deemed by the minister to be advisable for the proper administration of this Act and, for the purpose of conducting any such inquiry or investigation, the minister or person acting under the authority of the minister has all the powers of commissioners appointed under *The Public Inquiries Act*.

1976-77, c.36, s.67; R.S.S. 1978, c.L-1, s.67.

Power of minister's representative to determine amount of wages payable

68(1) Where a duly authorized representative of the minister finds that an employer has failed to pay to an employee any wages payable under this Act or under a contract of service, the representative may determine the amount of the wages that the employer has failed to pay to the employee and, if the amount is agreed to in writing by the employer and the employee, the employer shall within seven days pay that sum to the director who shall pay it to the employee.

(2) An employer who makes payment in accordance with subsection (1) is not liable to prosecution for failure to pay those wages to the employee.

1976-77, c.36, s.68; R.S.S. 1978, c.L-1, s.68.

Fee re wage assessment

68.1(1) Where the director issues a wage assessment against an employer or a corporate director and the wage assessment is not appealed or is upheld on appeal, the person against whom the wage assessment is issued is liable to pay to the director a fee in an amount determined in accordance with the regulations.

(2) Where a person who is liable to pay the fee mentioned in subsection (1) fails to pay that fee within the time prescribed in the regulations, the director may issue a certificate setting out the amount of the fee, and the certificate may be filed with a local registrar of the Court of Queen's Bench.

(3) A certificate filed pursuant to subsection (2) has the same force and effect as if it were a judgment obtained in the Court of Queen's Bench for the recovery of a debt.

1994, c.39, s.36.

Director as representative of employees

68.2(1) The director has standing to represent any or all employees of an employer:

(a) in proceedings pursuant to this Act:

(i) before an adjudicator;

(ii) in the Court of Queen's Bench; or

(iii) in the Court of Appeal; and

(b) in proceedings pursuant to any other Act or any Act of the Parliament of Canada with respect to claims for unpaid wages or for other amounts that are payable to employees pursuant to this Act.

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

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

1994, c.39, s.36.

Negotiation and settlement by director

68.3(1) Subject to subsections (2) and (3) but notwithstanding any other provision of this Act, the director may negotiate and settle any difference between an employer or corporate director and an employee pursuant to this Act and receive moneys on behalf of the employee in settlement of the difference.

(2) The director may act pursuant to subsection (1) only where:

(a) evidence is produced by the employer that satisfies the director that full settlement of the difference will lead to cessation of the employer's operation; or

(b) there is a considerable advantage to the employee and the employee requests the director to act.

(3) Where clause (2)(a) applies, no settlement shall be made for an amount that is less than the amount for which corporate directors would be liable pursuant to subsection 63(1).

1994, c.39, s.36.

Time limit for certain claims

68.4(1) A claim pursuant to this Act with respect to unpaid wages must be made to the director or a duly authorized representative of the minister within one year after the last day on which payment of wages was to be made to an employee and an employer failed to make payment.

(2) Recovery of wages pursuant to this Act is limited:

(a) to wages that became payable in the year immediately preceding the day on which the claim was made to the director or duly authorized representative of the minister; or

(b) where the employment with the employer has ceased, to wages that became payable within the last year of employment with that employer.

1994, c.39, s.36.

Posting of notices

69(1) Every employer shall keep posted in a conspicuous position in the place where his employees are engaged in their duties an abstract or abstracts of this Act or any order or regulation made under this Act that he may be required by such order or regulation to post.

(2) **Repealed.** 1994, c.39, s.37.

1976-77, c.36, s.69; R.S.S. 1978, c.L-1, s.69;
1994, c.39, s.37.

Employer to keep record of wages, hours worked, etc.

70(1) Every employer shall at all times keep readily available for inspection by the minister or his duly authorized representative, in each place of business operated by him in the province or in connection with which any employee is employed or in such other place or places as are approved by the minister, true and correct records showing particulars of every unwritten contract and a copy of every written contract or other document dealing with wages or other monetary benefits to which any employee is entitled and, in respect of each of his employees or the employment of each of his employees:

(a) the full name, sex, date of birth and residential address of the employee;

(b) the name or a brief description of the job or position of the employee;

(c) the rate of wages expressed in terms of wages per hour, week or month of the employee for the time that the employee may be required or permitted to work or to be at the disposal of the employer without the employer being required to pay the employee additional wages under Part 1;

(d) the total wages paid to the employee for each week or other pay period;

(e) the time when the employee's work begins and ends each day and the time when any interval for meals allowed to the employee each day begins and ends;

(f) the total number of hours worked by the employee each day and each week as well as the total number of hours each day and each week that the employee is required to be at the disposal of the employer;

- (g) every deduction made from the wages of the employee for any purpose whatever and the purpose for which each deduction was made;
 - (h) the date of each payment of wages to the employee;
 - (i) the date of commencement of the employee's employment, and the date of termination where applicable;
 - (j) the date upon which the employee becomes entitled to each annual holiday;
 - (k) the dates on which each annual holiday is taken by the employee;
 - (l) the amount paid to the employee in respect of each annual holiday to which the employee is entitled and the date of payment;
 - (m) the amount paid to the employee upon the termination of the employment of the employee and the date of payment; and
 - (n) such other particulars as the minister may prescribe.
- (1.1) Without limiting the generality of subsection (1), an employer shall keep a register of every employee whose work is ordinarily performed at home, setting out the address where that work is performed and the portion of the labour or services performed by the employee that was performed at home.
- (2) The record of each employee that is required by this section shall be retained by the employer for a period of five years following the termination of the employment of the employee.
- (3) The employment of an employee by an employer shall be deemed not to have been terminated for the purposes of subsection (2) where the employee is employed again by the employer within six months of the date on which the employment of the employee was terminated.
- (4) The records required by this section may be incorporated in any wage record that the employer is required to keep under any other Act.
- (5) The minister may prescribe the form in which the records required by this section shall be kept.

1976-77, c.36, s.70; R.S.S. 1978, c.L-1, s.70;
1994, c.39, s.38.

Records of director

- 71(1)** The director shall keep a record of all money paid to him by employers and corporate directors and paid by him to employees pursuant to this Act.
- (2) Where money received by the director under this Act on behalf of an employee has not been paid to the employee concerned by reason of the fact that the director has been unable to ascertain the whereabouts of the employee, and the employee does not claim it within a period of two years from the date of receipt thereof by the director, the money shall, upon the order of the deputy minister, become the property of the Crown and shall be paid into the general revenue fund.

1976-77, c.36, s.71; R.S.S. 1978, c.L-1, s.71;
1994, c.39, s.39; 2004, c.10, s.17.

PART IX General

Effect of Act on other Acts, agreements, contracts and customs

72(1) Nothing in this Act or in any order or regulation made under this Act affects any provision in any Act, agreement or contract of service or any custom insofar as it ensures to any employee more favourable conditions, more favourable hours of work or a more favourable rate of wages than the conditions, the hours of work or the rate of wages provided for by this Act or by any such order or regulation.

(2) Where any provision in this Act or in any order or regulation made under this Act requires the payment of wages at the rate of time and one-half, no provision in any Act, agreement or contract of service, and no custom, shall be deemed to be more favourable than the provision in this Act or in the order or regulation if it provides for the payment of wages at a rate less than the rate of time and one-half.

(3) Any provision in any Act, agreement or contract of service or any custom that is less favourable to an employee than the provision of this Act or any order or regulation made under this Act is superseded by this Act or any order or regulation made under this Act insofar as it affects that employee.

1976-77, c.36, s.72; R.S.S. 1978, c.L-1, s.72;
1979-80, c.84, s.13.

Other remedies preserved

73 Except as may be otherwise permitted by this Act and subject to section 68, nothing in this Act curtails, abridges or defeats any civil or other remedy for the recovery of wages by an employee from his employer.

1976-77, c.36, s.73; R.S.S. 1978, c.L-1, s.73.

Discrimination by employer prohibited

74(1) No employer shall discharge or threaten to discharge or in any manner discriminate 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 an Act or an Act of the Parliament of Canada.
- (2) Subsection (1) does not apply where the actions of an employee are vexatious.

1994, c.39, s.41.

Agreements not to deprive employees of benefits of Act

75(1) No agreement, whether heretofore or hereafter entered into, has any force or effect if it deprives an employee of any right, power, privilege or other benefit provided by this Act.

(2) This Act applies to agreements made in or out of Saskatchewan with respect to service or labour performed in Saskatchewan.

1976-77, c.36, s.75; R.S.S. 1978, c.L-1, s.75.

Employee not to return wages to employer

76 No employer shall require an employee to return to him, or accept from an employee, the whole or any part of any wages, minimum wage or annual holiday pay that he paid to the employee under the provisions of this Act or of any order, authorization, directive or regulation made under this Act, or that he paid under a contract of service.

1976-77, c.36, s.76; R.S.S. 1978, c.L-1, s.76.

Remuneration of board or committee members

77 Every member of a board or committee and every adjudicator appointed under this Act may be paid such expenses and compensation for his services as may be determined by the Lieutenant Governor in Council.

1976-77, c.36, s.77; R.S.S. 1978, c.L-1, s.77;
1994, c.39, s.42.

Enforcement of outside wage judgments

78(1) Notwithstanding any other Act, a certified copy of a final order or judgment for the payment of wages made by any court or statutory authority in any other province or territory of Canada may be registered as a judgment in the office of a local registrar of the Court of Queen's Bench and shall thereupon be enforceable in the same manner as any other judgment or order of the court.

(2) The department shall take all proper steps to enforce a judgment registered in accordance with subsection (1).

(3) A copy of any order made by a court or statutory authority mentioned in subsection (1) purporting to be certified as a true copy of the presiding officer, judge or secretary shall be received in any court in the province as evidence of the order without proof of the appointment or signature of the person so certifying.

1976-77, c.36, s.78; R.S.S. 1978, c.L-1, s.78;
1979-80, c.92, s.44; 1988-89, c.42, s.55.

Application to set aside registered order

79(1) Where an order has been registered under section 78, the person against whom the order was made may, within one month after he has had notice of the registration or within such further time as may be allowed under subsection (2), apply to the registering court to have the registration set aside.

(2) The registering court may, upon application by the person against whom the order was made and upon any terms it considers just and equitable, from time to time, extend the time within which an application may be made under subsection (1); and an order to extend the time may be made under this subsection notwithstanding that the time within which an application under subsection (1) may be made expired before an application for extension was made under this subsection.

(3) On an application under subsection (1), the court shall set aside the registration of the order if the court is satisfied that:

- (a) under the conflict of laws rules of Saskatchewan, the court or statutory authority in the other province or territory acted without jurisdiction over the person against whom the order was made; or
- (b) the order was obtained by fraud.

(4) Where on an application under subsection (1) it is established to the court's satisfaction that an appeal is pending in the other jurisdiction, the court may make such order as it sees fit.

1976-77, c.36, s.79; R.S.S. 1978, c.L-1, s.79.

Leave of absence to seek nomination and election

80(1) Notwithstanding any other provision of this Act or the regulations, every employer shall, upon application to him by his employee, grant to the employee reasonable leave of absence from his employment with the employer to seek nomination as a candidate and to be a candidate for a municipal, provincial or federal election or an election for a school division, or the Conseil scolaire fransaskois and shall, upon the expiration of the leave of absence, allow the employee to continue his employment without loss of any privilege connected with seniority, such seniority to be determined at the date the leave of absence began.

(2) Notwithstanding any other provision of this Act or the regulations, every employer shall, upon application to him by his employee, grant to the employee reasonable leave of absence from his employment with the employer, if the employee has been elected to a municipal, provincial or federal government or a board of education, or the Conseil scolaire fransaskois, for such period during the employee's term of office as may be necessary for the employee to fulfil the duties of his office and shall, upon the expiration of the leave of absence, allow the employee to continue his employment without loss of any privilege connected with seniority, such seniority to be determined at the date the leave of absence began.

(3) Where an employer is convicted of failure to comply with subsection (1) or (2), the convicting judge may, in addition to any other penalty imposed for the offence, order the employer to forthwith allow the employee such leave of absence as had been requested by the employee or, if the conviction is for failing to allow an employee to continue his employment after the employee has, pursuant to this section, requested and been given leave of absence, the convicting judge shall order the employer to allow the employee to continue his former employment under the same terms and conditions in which he was formerly employed and to pay the employee the wages the employee would have earned if he had continued his employment after the expiration of his leave of absence under subsection (1) or (2).

1976-77, c.36, s.80; R.S.S. 1978, c.L-1, s.80;
1994, c.39, s.43; 2002, c.R-8.2, s.81.

Prohibition against discharging employee for garnishee proceedings

81 No employer shall discharge or lay off any employee by reason of the fact alone that a garnishee summons issued pursuant to *The Attachment of Debts Act* or a notice of continuing garnishment or notice of garnishment pursuant to *The Enforcement of Maintenance Orders Act* was served on the employer in respect of that employee.

1976-77, c.36, s.81; R.S.S. 1978, c.L-1, s.81;
1986, c.14, s.3.

All money payable deemed to be wages

82 All money payable by an employer to any employee under this Act shall be deemed to be wages earned by the employee and is subject to all deductions that the employer is required to make from wages under any law in force in the province.

1976-77, c.36, s.82; R.S.S. 1978, c.L-1, s.82.

Employment deemed continuous

83 For the purposes of this Act, where a business or part thereof is sold, leased, transferred or otherwise disposed of, the service of the employees affected shall be deemed to be continuous and uninterrupted by the sale, lease, transfer or other disposition.

1976-77, c.36, s.83; R.S.S. 1978, c.L-1, s.83.

Service of documents

83.1(1) Unless otherwise provided in this Act, any document or notice required by this Act or the regulations to be served on any person other than the director may be served:

- (a) by personal service on the person by delivery of a copy of the document or notice;
 - (b) by sending a copy of the document or notice by registered or certified mail to the last known address of the person or to the address of the person as shown in the records of the department;
 - (c) by sending a copy of the document or notice to an employee by ordinary mail to the last known address of the employee;
 - (d) by any of the methods set out in Rule 22 of *The Queen's Bench Rules*; or
 - (e) by delivering a copy to the person's lawyer if the lawyer accepts service by endorsing his or her name on a true copy of the document or notice indicating that he or she is the lawyer for that person.
- (2) A document or notice to be served on the director or the registrar of appeals must be served in the manner prescribed in the regulations.
- (3) A document or notice served by registered mail, certified mail or ordinary mail is deemed to have been received on the third day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person, the person did not receive the document or notice.

(4) Where the director is unable to effect service by the methods set out in subsection (1) after making reasonable efforts to do so, the director may serve a document or notice by publishing it in a newspaper of general circulation in the area in which the person was last known to reside.

(5) Any person who is required to serve a document or notice pursuant to this Act or the regulations may apply *ex parte* to a judge of the Court of Queen's Bench for an order for substitutional service or for an order dispensing with service.

(6) On an application pursuant to subsection (5), a judge of the Court of Queen's Bench may make an order for substitutional service by any means that the judge considers appropriate or an order dispensing with service, where the judge is satisfied that:

- (a) prompt service of the document or notice cannot be effected;
- (b) the whereabouts of the person to be served cannot be determined; or
- (c) the person to be served is evading service.

1994, c.39, s.44.

Conflict with *The Pension Benefits Act, 1992*

83.2 If there is a conflict between any provision of this Act and *The Pension Benefits Act, 1992* or any regulations made pursuant to that Act, that Act or those regulations shall prevail.

1994, c.39, s.44.

Vote to approve variation

83.3 Subject to the regulations, where the director is authorized by any provision of this Act to grant an approval, authorization, permit or licence that would permit an employer to vary a standard imposed by this Act, the director may require a vote to be taken by secret ballot of employees affected by the proposed variation before exercising that authority.

1994, c.39, s.44.

PART X Regulations

Regulations

84(1) For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make regulations that are ancillary to and are not inconsistent with this Act, and every regulation made under this section has the force of law and, without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations:

- (a) exempting any class or group of employers from any or all of the provisions of this Act, conditionally or unconditionally;
- (b) exempting any class or group of employees from any or all of the provisions of this Act conditionally or unconditionally;

- (b.1) defining, enlarging or restricting any word or phrase used in this Act but not defined in this Act;
- (c) imposing terms and conditions applicable to any class or group of employers or employees exempted under clause (a) or (b) including terms and conditions prescribing the number of hours that an employee or class or group of employees may be required or permitted to work or to be at the disposal of his or their employer without the employer being required to pay the employee or class or group of employees additional wages under Part I;
- (d) prescribing the period, if any, during which an order made under clause (a), (b) or (c) applies;
- (e) respecting the determination of the cash value of board and lodging received by an employee from his employer where such value has not been determined by the Minimum Wage Board;
- (e.1) prescribing circumstances in which employers are not required to provide meal breaks in accordance with subsection 13.3(1);
- (e.11) governing meal breaks required to be granted in circumstances prescribed pursuant to clause (e.1);
- (e.21) prescribing benefit plans for the purposes of subsection 26(3);
- (e.3) for the purposes of Part VI, requiring the observance of a public holiday on a day other than the calendar day on which it would otherwise fall;
- (e.4) authorizing the establishment by an employer of a uniform entitlement date for the annual holidays of employees and modifying the requirements of Part VII to accommodate the use of a uniform entitlement date;
- (e.6) for the purposes of clause 44.1(2)(b), prescribing the time within which notice of group termination must be given;
- (e.7) exempting any establishment or any class of establishments from the application of section 45.1, conditionally or unconditionally;
- (e.8) governing the provision of benefits to eligible employees pursuant to section 45.1;
- (e.9) for the purposes of subsection 54(2), prescribing conditions with respect to the circumstances in which a third party demand may be served;
- (f) respecting the written information to be furnished by an employer to an employee, at the request of the employee, at the time when the employee is being hired by the employer;
- (g) requiring an employer who is convicted under this or any other Act or under any regulation or order made under the Act, for failure to pay wages to an employee, to furnish a bond in such amount and for such duration as the minister may require;

- (h) requiring that no employee shall be compelled or required by his employer to live or reside in accommodation that the employee considers unsuitable, unsafe or unsanitary unless the director approves such accommodation as being satisfactory for the purpose; and
 - (i) conferring powers on adjudicators for the purposes of section 61;
 - (j) prescribing the amount of money that an appellant must deposit with the registrar of appeals for the purposes of subsection 62(3);
 - (k) governing procedures by which hearings are to be conducted for the purposes of subsection 62.1(2);
 - (l) prescribing an interest rate for the purposes of subsection 62.2(2);
 - (m) for the purposes of section 68.1, prescribing:
 - (i) the amounts of fees payable or the manner of determining the amounts of fees;
 - (ii) the time within which fees must be paid;
 - (n) for the purposes of subsection 83.1(2), prescribing the manner of serving documents on the director or the registrar of appeals;
 - (o) for the purposes of section 83.3, respecting the circumstances in which the director may require a vote by secret ballot and governing the conduct of a vote;
 - (p) governing the keeping of records by employers for the purposes of this Act;
 - (q) governing written statements required pursuant to this Act;
 - (r) prescribing any other matter or thing that is required or authorized by this Act to be prescribed in the regulations;
 - (s) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2) Where, pursuant to subsection (1), a class or group of employees is exempted from any or all of the provisions of this Act, that class or group of employees may subsequently, by regulation, be made subject to any or all of the provisions of this Act from which it was exempted and, in such event, the class or group of employees shall not suffer any loss or diminution of wages, not including overtime wages, or of working conditions that the class or group received or enjoyed immediately prior to being made subject to this Act or any provision thereof.

1976-77, c.36, s.84; R.S.S. 1978, c.L-1, s.84;
1994, c.39, s.45.

PART XI Offences and Penalties

Penalty

85(1) Every person who:

- (a) fails to comply with or violates any provision of this Act or of any order, authorization, directive or regulation made pursuant to this Act;
- (b) with intent to deceive, makes a false or misleading statement in any communication, whether in writing or otherwise, to the minister, the minister's duly authorized representative or an adjudicator; or
- (c) interferes with or obstructs the minister, the minister's duly authorized representative or an adjudicator in the exercise of a power conferred by this Act or by a regulation made pursuant to this Act;

is guilty of an offence.

(1.1) Every person who is guilty of an offence mentioned in subsection (1) is liable on summary conviction:

- (a) subject to clause (b), to a fine of not more than \$2,000 for an offence; 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 \$5,000 for a second offence; and
 - (ii) to a fine of not more than \$10,000 for a third or subsequent offence.

(2) In any prosecution under this Act, other than a prosecution for an offence against clause (a) or (b) of subsection (1), the burden of proof on the prosecution shall be on a balance of probabilities and it shall not be necessary for the prosecution to establish guilt of the accused beyond a reasonable doubt.

1976-77, c.36, s.85; R.S.S. 1978, c.L-1, s.85;
1994, c.39, s.46.

Directors, etc., of corporation guilty of certain offence

86 Where a corporation has committed an offence against this Act, every director, officer or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of an offence and liable on summary conviction to the fine provided for the offence whether or not the corporation has been prosecuted or convicted.

1976-77, c.36, s.86; R.S.S. 1978, c.L-1, s.86.

Order for payment of unpaid wages

87(1) Where a person is convicted of failure to comply with or of a violation of, any provision of this Act or of any order, authorization, directive or regulation made under this Act by failing to pay to an employee or the director any wages or other sums that the employee or director is entitled to receive in accordance with any such provision, the convicting judge shall, in addition to the fine imposed, order the person to pay to the employee or director, as the case may require, forthwith or upon such terms and conditions as the judge considers just, the amount of such wages or other sums and the judge shall remit to the employee or the director, as the case may require, any moneys received pursuant to the order.

(2) Notwithstanding section 85, a person who fails to comply with an order made under subsection (1) is not guilty of an offence under this Act where he satisfies the judge that he is unable to comply with the order.

(3) Where default is made in payment of any sum ordered pursuant to subsection (1) to be paid, the convicting judge shall upon request furnish the complainant with two certified copies of his order.

(4) The person in whose favour an order under this section is given or his solicitor or agent may, upon payment of the prescribed fee, file a certified copy of the order in the office of the local registrar of the Court of Queen's Bench at the judicial centre nearest to the place where the employer resides and when so filed the copy of the order shall be entered and may be enforced as a judgment of Her Majesty's Court of Queen's Bench for Saskatchewan.

1976-77, c.36, s.87; R.S.S. 1978, c.L-1, s.87;
1979-80, c.92, s.44; 1994, c.39, s.47.

Orders to prepare, etc., records and information

88 Where an employer is convicted of failure to comply with, or of a violation of, any provision of this Act or any order, authorization, directive or regulation made under this Act by 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 forthwith prepare and deliver to the minister or his authorized representative such records or information.

1976-77, c.36, s.88; R.S.S. 1978, c.L-1, s.88;
1994, c.39, s.48.

Order to reinstate wrongfully dismissed employee

89 Where an employer is convicted of discharging, laying off or suspending an employee or otherwise discriminating against an employee contrary to any provision of this Act, the convicting judge may order the employer to reinstate the employee in his former employment under the same terms and conditions in which he was formerly employed and may order the employer to pay to the employee wages the employee would have earned if he had not been wrongfully discharged, laid off or suspended by his employer and may further order that any discriminatory action wrongfully taken be revoked.

1976-77, c.36, s.89; R.S.S. 1978, c.L-1, s.89;
1994, c.39, s.49.

Time limit for prosecutions

90 No prosecution shall be commenced for an offence under this Act after the expiration of two years from the date of commission of the alleged offence.

1976-77, c.36, s.90; R.S.S. 1978, c.L-1, s.90;
1994, c.39, s.50.

Editorial Appendix**Transitional**

5(1) In this section, “**eligible employee**” means an employee who:

- (a) is a parent of a child who:
 - (i) was born on or after December 31, 2000 but before the coming into force of section 4 of this Act; or
 - (ii) came into an employee’s care on or after December 31, 2000 but before the coming into force of section 4 of this Act; and
- (b) on the coming into force of section 4 of this Act, is taking, or whose spouse, as defined in section 29.3 of *The Labour Standards Act*, is taking, with respect to that child:
 - (i) maternity leave pursuant to Part IV of *The Labour Standards Act*;
 - (ii) adoption leave pursuant to section 29.2 of *The Labour Standards Act*; or
 - (iii) parental leave pursuant to section 29.1 of *The Labour Standards Act* as that section existed before the coming into force of section 4 of this Act.
- (2) An employer shall grant an extended leave in accordance with subsections (3) and (4) to an eligible employee if the employee gives the employer written notice of the employee’s intention to take extended leave as soon as possible before the end of the leave mentioned in clause (1)(b).
- (3) Extended leave consists of the period described in subsection (4) that:
 - (a) ends not later than 52 weeks following the date of birth or the day on which the child comes into the employee’s care, as the case may be; and
 - (b) is taken consecutively with any leave mentioned in clause (1)(b).

- (4) The period of extended leave to which an employee is entitled is:
- (a) not more than 34 consecutive weeks in the case of an employee who is taking leave mentioned in subclause (1)(b)(i) or (ii);
 - (b) not more than 34 consecutive weeks less the total of any parental leave taken in the case of an employee taking leave mentioned in subclause (1)(b)(iii) who has also taken leave mentioned in subclause (1)(b)(i) or (ii);
 - (c) not more than 37 consecutive weeks in the case of an employee whose spouse is taking leave mentioned in subclause (1)(b)(i) or (ii); and
 - (d) not more than 37 consecutive weeks less the total of any parental leave taken in the case of an employee taking leave mentioned in subclause (1)(b)(iii) who was not entitled to leave mentioned in subclause (1)(b)(i) or (ii).
- (5) Section 26, subsection 27(3) and section 28 of *The Labour Standards Act* apply, with any necessary modification, to extended leave pursuant to this section.

2001, c.6, s.5.