

The Employment Standards Regulations

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Chapter S-15.1 Reg 5 (effective April 29, 2014) as amended by Saskatchewan Regulations [95/2016](#), [37/2018](#), [58/2018](#), [21/2020](#), [28/2020](#), [62/2020](#), [5/2021](#) and [81/2021](#).

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.

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CHAPTER S-15.1 REG 5
The Saskatchewan Employment Act

PART I
Preliminary Matters

Title

1 These regulations may be cited as *The Employment Standards Regulations*.

Interpretation

2(1) In these regulations:

- (a) **“Act”** means *The Saskatchewan Employment Act*;
- (b) **“approved home”** means:
 - (i) an approved home within the meaning of *The Mental Health Services Act* and the regulations made pursuant to that Act; or
 - (ii) a private-service home certified or licensed pursuant to *The Residential Services Act* and the regulations made pursuant to that Act;
- (c) **“care provider”** means an employee who provides services in the private residence of the employer or a private residence of a member of the employer’s immediate family that relate primarily to the provision of care and supervision of a person who is a member of the employer’s immediate family;
- (d) **“city”** includes the City of Lloydminster;
- (e) **“commercial hog operation”** means any undertaking:
 - (i) that is engaged in the breeding, farrowing, weaning or finishing of porcine animals; and
 - (ii) that employs six or more full-time-equivalent employees calculated in accordance with subsection 33(2) or (3);
- (f) **“domestic worker”** means an employee who provides services in the private residence of the employer that relate primarily to the management and operation of that residence;
- (f.1) **“election official”** means an election official as defined in *The Election Act Regulations*;
- (g) **“employer’s immediate family”** means:
 - (i) a spouse of the employer or a person with whom the employer cohabits and has cohabited as a spouse in a relationship of some permanence;
 - (ii) a parent, grandparent, child, grandchild, brother or sister of the employer; or
 - (iii) a parent, grandparent, child, grandchild, brother or sister of a person mentioned in subclause (i);

- (h) **“finishing”** means bringing an animal to market weight in preparation for slaughter but does not include the slaughter of the animal;
- (i) **“full-time employee”** means an employee who regularly works full-time hours;
- (j) **“full-time hours”**, with respect to a place of employment, means the greater of:
 - (i) the hours established by the employer for that place of employment; and
 - (ii) 30 hours per week;
- (k) **“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;
- (l) **“intern”** means:
 - (i) a person whom an employer permits, directly or indirectly, to perform work or services normally performed by an employee; or
 - (ii) a person being trained by an employer for the employer’s business;
- (m) **“live-in care provider”** means a care provider who resides in the private residence in which he or she provides the services described in clause (c);
- (n) **“live-in domestic worker”** means a domestic worker who resides in the private residence in which he or she provides the services described in clause (f);
- (o) **“minimum wage”** means the hourly minimum wage fixed pursuant to section 2-16 of the Act and the regulations made pursuant to the Act;
- (p) **“oil truck driver”** means an employee who is employed principally in delivering gasoline, lubricating oils and other petroleum products by truck from a refinery, bulk filling station or other similar premises to farms, garages or automobile service stations, but does not include an employee who regularly travels in the course of his or her duties to two or more cities, towns or villages that are at least 20 kilometres apart;
- (q) **“public holiday”** means a public holiday as defined in section 2-30 of the Act, and includes any other day agreed to be observed or directed to be observed as a public holiday pursuant to section 2-31 of the Act;
- (r) **“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;
- (s) **“sitter”** means a person who is employed:
 - (i) on a temporary basis in a private residence solely to provide care and supervision for a person who is incapable of living independently; or
 - (ii) on a temporary basis not exceeding 21 days in a year to relieve the proprietor of an approved home and whose wages are subsidized in whole or in part;

but does not include a person who is employed and working as:

- (iii) a nurse;
- (iv) a therapist;
- (v) a care provider;
- (vi) an employee of a child care facility; or
- (vii) an employee of a business or a regional health authority that is engaged in providing a service described in this clause;

(t) **“student learner”** means a person who:

- (i) is enrolled in an educational program at an educational institution recognized by the minister; and
- (ii) is receiving skills training that is a requirement to receive a designation from an educational institution recognized by the minister;

but does not include an intern.

(2) For the purposes of clause 2-1(f) of the Act:

(a) a person who is engaged in the activities associated with being a student learner is not an employee for the purposes of Part II of the Act and these regulations; and

(b) a person engaged in the activities associated with being an intern is an employee for the purposes of Part II of the Act and these regulations.

(3) For the purposes of subsection 2-27(4) of the Act, **“monetary loss”** means the amount of any non-refundable deposit, penalty or other prepaid expense that is directly related to an employee’s cancelled vacation and that the employee can verify as having been paid.

(4) For the purposes of clauses 2-56(4)(a) and 2-57(3)(a) of the Act, **“providing care or support”** means all or any of the following:

(a) directly providing or participating in providing care of the family member, critically ill child or critically ill adult;

(b) providing psychological or emotional support of the family member, critically ill child or critically ill adult;

(c) arranging for the care of the family member, critically ill child or critically ill adult by another care provider.

(5) For the purposes of calculating when an employee’s period of leave has been fully used in accordance with section 2-56 or 2-57 of the Act:

(a) the employee is not considered to have ceased to provide care or support to a family member, critically ill child or critically ill adult despite returning to work from time to time if:

- (i) between each return to work, the employee takes leave of at least one week to provide care or support; and

(ii) the total length of the period of leave taken by the employee does not exceed the total set out in section 2-56 or 2-57 of the Act, as the case may be; and

(b) only the periods during which the employee is on leave are to be used in making the calculation and not the periods during which the employee has returned to work.

2 May 2014 cS-15.1 Reg 5 s2; 23 Dec 2016 SR 95/2016 s2; 27 Mar 2020 SR 21/2020 s3.

Exemptions from Part II of the Act

3(1) Part II of the Act does not apply to:

(a) employees in an undertaking in which only members of the employer's immediate family are employed;

(b) sitters; or

(c) athletes while engaged in activities related to their athletic endeavour.

(2) Section 2-16 of the Act does not apply to employees who:

(a) have a physical or mental disability or impairment; and

(b) work for a non-profit organization or institution in programs that are educational, therapeutic or rehabilitative.

(3) Subdivisions 1 to 7 and 12 of Division 2 of Part II of the Act do not apply to employees who are commercial fishers or commercial trappers, as defined in *The Fuel Tax Regulations, 2000*.

(4) Except for sections 2-15 and 2-16, Subdivisions 2 and 3 of Division 2 of Part II of the Act do not apply to an employee who performs services that are entirely of a managerial character.

(5) Except for sections 2-15 and 2-16, Subdivisions 2, 3, 6 and 7 of Division 2 of Part II of the Act do not apply to teachers as defined in section 2 of *The Education Act, 1995*.

(6) Section 2-11, subsection 2-13(1), sections 2-17 to 2-20, Subdivisions 6 and 7 of Division 2 of Part II and clause 2-33(1)(a) of the Act do not apply to election officials.

2 May 2014 cS-15.1 Reg 5 s3; 27 Mar 2020 SR 21/2020 s4.

PART II Firefighters

Interpretation of Part

4 In this Part:

(a) **“fire chief”** means the officer in charge of a fire department;

(b) **“fire department”** means a fire department in a city having a population of 10,000 or more as shown by the latest census taken pursuant to the *Statistics Act* (Canada);

(c) “**firefighter**” means a person regularly employed in a fire department on a full-time basis and assigned exclusively to fire protection or fire prevention duties but does not include:

- (i) the fire chief or a deputy fire chief;
- (ii) any other person having authority to employ or discharge a firefighter; or
- (iii) any person regularly acting in a confidential capacity on behalf of the fire chief or of the city or of any board, commission or other body established to manage, control and operate the fire department.

2 May 2014 cS-15.1 Reg 5 s4.

Limited application of Part II of the Act

5 Except for sections 2-15 and 2-16, Subdivisions 2 and 3 of Division 2 of Part II of the Act do not apply to firefighters.

2 May 2014 cS-15.1 Reg 5 s5.

Establishment of platoons

6 A fire chief shall divide the officers, firefighters and employees of the fire department into platoons for work in accordance with one of the following systems:

- (a) a system pursuant to which the fire chief shall not keep a platoon on duty for more than 24 consecutive hours, after which the platoon kept on duty is to be allowed 24 consecutive hours off duty;
- (b) a system pursuant to which:
 - (i) one platoon shall not be on duty for day work for more than 10 consecutive hours in each 24-hour period and the other shall not be on duty for night work for more than 14 consecutive hours in each 24-hour period;
 - (ii) the average number of hours of work of each platoon over a period of 16 weeks is not to exceed 42 hours per week; and
 - (iii) each platoon is to alternate at least once in every seven days from day work to night work or from night work to day work.

2 May 2014 cS-15.1 Reg 5 s6.

Period of rest

7(1) In every permanent fire department, every officer, firefighter and employee of the fire department is entitled to a period of rest of at least 24 consecutive hours in every seven days.

(2) If the two-platoon system described in clause 6(b) is in operation, no part of the hours of release from duty at the change of platoons is to be included in the period of rest mentioned in subsection (1).

2 May 2014 cS-15.1 Reg 5 s7.

Full attendance at conflagrations

8 Notwithstanding any other provision of this Part, if the fire chief is of the opinion that the attendance of all officers and employees of the fire department is necessary to control a conflagration, the fire chief may require the attendance of all the officers, firefighters and employees for work during the continuance of the conflagration.

2 May 2014 cS-15.1 Reg 5 s8.

PART III**Modified Work Arrangements and Hours of Work****Agreements to average work hours**

9(1) In this section and in sections 10 and 11, “**agreement**” means a modified work arrangement agreed to pursuant to subsection (2).

(2) Pursuant to clause 2-19(1)(a) of the Act, an employer and an employee or a group of employees may agree to:

- (a) average the hours of work of the employee or group of employees as follows:
 - (i) 40 hours over one week;
 - (ii) 80 hours over two weeks;
 - (iii) 120 hours over three weeks;
 - (iv) 160 hours over four weeks; and
 - (b) a daily number of hours after which overtime applies.
- (3) An agreement must:
- (a) be in writing;
 - (b) be signed one week before the start date provided in the agreement by:
 - (i) the employer; and
 - (ii) the employee or a majority of the group of employees subject to the agreement, as the case may be;
 - (c) specify the number of weeks over which the hours will be averaged;
 - (d) specify the daily hours of work after which an employee becomes entitled to overtime;
 - (e) specify the work schedule that reflects the daily and weekly hours of work agreed to by the parties; and
 - (f) provide for a start date and an expiry date for the agreement.
- (4) No agreement is to be more than two years in length.
- (5) The maximum daily number of hours of work that an employee or employees and employer can agree to pursuant to clause (2)(b) is 12 hours.

- (6) The employer shall retain a copy of the agreement and provide a copy of the agreement by:
- (a) personally giving it to the employee or each employee bound by the agreement;
 - (b) posting it in the workplace;
 - (c) posting it online on a secure website to which the employee or each employee bound by the agreement has access; or
 - (d) providing it in any other manner that informs the employee or each employee bound by the agreement of the agreement.
- (7) If an employer requires or permits the employee to work or to be at the employer's disposal for a period in excess of the daily or weekly average hours agreed to pursuant to clause (2)(a) or (b), the employer shall pay overtime pay to the employee in accordance with section 2-17 of the Act.
- (8) This section does not apply to employees to whom subsection 2-18(4) of the Act applies.
- (9) An agreement applies to an employee in a group of employees bound by the agreement whether or not the employee was employed by the employer at the time the agreement was entered into.
- (10) The employer and the employees may renegotiate an agreement at any time.
- (11) The employer shall retain a copy of every agreement for five years following its expiry.

2 May 2014 cS-15.1 Reg 5 s9.

Exemption from section 2-18 of Act - city newspapers

- 10(1) For the purposes of clause 2-19(1)(a) of the Act, persons employed as editorial writers, reporters or advertising salespersons by the publisher of a newspaper located in a city are subject to subsections (2) and (3) unless an agreement is entered into pursuant to section 9.
- (2) No employer shall require or permit an employee described in subsection (1) to work or to be at the employer's disposal for more than 80 hours in any two consecutive weeks unless the employee is paid wages at the rate of 1.5 times the employee's hourly wage for each hour or part of an hour in excess of 80 hours in those two consecutive weeks.
- (3) In calculating the number of hours worked in a period of two consecutive weeks during which a public holiday occurs:
- (a) the 80-hour standard in each two-week period mentioned in subsection (2) is reduced by eight hours with respect to each public holiday that occurs in the period; and
 - (b) no account is to be taken of any time the employee is required to work or to be at the employer's disposal on a public holiday.
- (4) This section does not apply to employees to whom subsection 2-18(4) of the Act applies.

2 May 2014 cS-15.1 Reg 5 s10.

Exemption from sections 2-12 and 2-18 of Act - commercial hog operation employees

11(1) For the purposes of clause 2-19(1)(a) of the Act, persons employed in commercial hog operations are subject to subsections (3) and (4) unless an agreement is entered into pursuant to section 9.

(2) Section 2-12 of the Act does not apply to employees mentioned in subsection (1).

(3) No employer shall require or permit an employee described in subsection (1) to work or to be at the employer's disposal for more than 10 hours in any day or 80 hours in any two consecutive weeks unless the employee is paid wages at the rate of 1.5 times the employee's hourly wage for each hour or part of an hour in excess of 10 hours in any day or 80 hours in those two consecutive weeks.

(4) In calculating the number of hours worked in a period of two consecutive weeks during which a public holiday occurs:

(a) the 80-hour standard in each two-week period mentioned in subsection (3) is reduced by eight hours with respect to each public holiday that occurs in the period; and

(b) no account is to be taken of any time the employee is required to work or to be at the employer's disposal on a public holiday.

(5) This section does not apply to employees to whom subsection 2-18(4) of the Act applies.

2 May 2014 cS-15.1 Reg 5 s11.

Time banks – overtime

12(1) For the purpose of subsection 2-18(3) of the Act and this section:

(a) **“banked time”** means the overtime hours credited to an employee's time bank, for which an employer is to provide the employee with time off with pay in accordance with this section;

(b) **“written notice”** means notice, in writing, that is required to be given to the other party by an employer or employee.

(2) For the purposes of clause (1)(b), a written notice must be at least one pay period in length.

(3) For the purposes of subsection 2-18(3) of the Act, a time bank agreement must:

(a) be in writing;

(b) be agreed to by the employer and the employee; and

(c) be signed by the employer and employee.

(4) All hours banked pursuant to this section are to be banked at 1.5 times the number of overtime hours worked.

(5) All hours taken from the time bank must be taken:

(a) during an employee's regularly scheduled work hours;

- (b) at a time or times agreed to by the employer and employee, or, in the absence of agreement, as scheduled by the employer, and section 2-11 of the Act applies, with any necessary modification, for the purposes of this clause;
 - (c) at the employee's hourly wage; and
 - (d) within 12 months after the end of the pay period in which the overtime hours were banked.
- (6) Banked time is deemed to be wages owing to the employee for the purposes of recovery of the wages.
- (7) Each hour or part of an hour of time off with pay is deemed to be regular hours of work.
- (8) The employer shall retain a copy of the time bank agreement entered into pursuant to subsection (3) and provide a copy of the agreement to the employee in any manner that informs the employee of the agreement.
- (9) The employer shall pay to the employee wages for all banked time for which time off with pay did not occur in accordance with clause (5)(d).
- (10) For the purposes of subsection (9):
- (a) that payment must be the product of:
 - (i) the employee's hourly wage; and
 - (ii) the employee's remaining banked time; and
 - (b) the employer shall make that payment in accordance with section 2-33 of the Act.
- (11) An employer or an employee, at any time, may give written notice to the other party of his or her intention to:
- (a) issue or obtain payment for all or part of the hours in the time bank; or
 - (b) terminate the time bank.
- (12) If written notice is given pursuant to clause (11)(a), the employer shall, not later than the end of the pay period following the pay period in which written notice was provided, pay the employee wages for the banked overtime hours in accordance with subsection (10).
- (13) If written notice is given pursuant to clause (11)(b):
- (a) the employer shall, not later than the end of the pay period following the pay period in which written notice was provided, either:
 - (i) pay the employee wages for the banked overtime hours in accordance with subsection (10); or
 - (ii) schedule the times at which the employee shall take the banked hours in accordance with clause (5)(b); and
 - (b) the employee's time bank is deemed to be closed.

(14) If the employer lays off or terminates the employment of an employee, the employer shall not require the employee to take banked overtime hours off with pay as part of the required notice period pursuant to section 2-60 of the Act.

(15) If the employer lays off or terminates the employment of an employee, the payment pursuant to clause (10)(a) is not to be considered pay instead of notice required pursuant to section 2-61 of the Act.

2 May 2014 cS-15.1 Reg 5 s12.

Exemption from sections 2-17 and 12-18 of Act - oil truck drivers

13(1) Subject to subsections (2) to (9), sections 2-17 and 2-18 of the Act do not apply to persons employed as oil truck drivers.

(2) Subject to subsection (8), the employer of an oil truck driver shall show in the records kept pursuant to section 2-38 of the Act the number of hours during which the oil truck driver is required or permitted to work or to be at the employer's disposal that are in excess of 40 hours in any week.

(3) For the purposes of this section, all of the hours that are in excess of 40 hours in any week are to accumulate to the credit of the oil truck driver unless they are cancelled in accordance with subsection (4).

(4) If an oil truck driver is required or permitted to work or to be at the employer's disposal for less than 40 hours in any week, each hour by which the number of hours during which the oil truck driver is required or permitted to work or to be at the employer's disposal in that week is less than 40 hours cancels one hour that has already accumulated or may in future accumulate to the credit of the oil truck driver.

(5) On July 1 in each year, the employer of an oil truck driver shall:

(a) determine the number of hours that, as of that date, have accumulated to the credit of the oil truck driver during the previous 12 months and have not been cancelled; and

(b) within 14 days after that date, pay to the oil truck driver wages at the rate of 1.5 times the oil truck driver's hourly wage for every hour or part of an hour determined pursuant to clause (a).

(6) On payment pursuant to clause (5)(b), the hours determined pursuant to clause (5)(a) are cancelled.

(7) If the employment of an oil truck driver is terminated by the employer, the employer shall pay to the oil truck driver, in addition to all other amounts due to the oil truck driver, wages at the rate of 1.5 times the oil truck driver's hourly wage for each hour or part of an hour that, as of the date of the termination of employment, has accumulated to the credit of the oil truck driver and has not been cancelled.

(8) No employer of an oil truck driver shall, with respect to any week in which the employer requires or permits the oil truck driver to work or to be at the employer's disposal for less than 40 hours, reduce the wages paid to the oil truck driver below the wages paid with respect to any week in which the employer requires or permits the oil truck driver to work or to be at the employer's disposal for 40 hours or more.

(9) In calculating the number of hours worked in a week in which a public holiday occurs:

- (a) the 40-hour standard in a week mentioned in subsection (2) is to be reduced by eight hours with respect to each public holiday that occurs in the week; and
- (b) no account is to be taken of any time the oil truck driver is required to work or to be at the employer's disposal on a public holiday.

2 May 2014 cS-15.1 Reg 5 s13.

Exemption from sections 2-12, 2-17, 2-18 and 2-19 of Act - certain employees

14(1) Sections 2-12, 2-17, 2-18 and 2-19 of the Act do not apply to the following employees:

- (a) employees who are professional practitioners registered or licensed in accordance with any Act or who, while learning their profession, are medical interns, students-at-law, students in accountancy or other trainees or students;
- (b) employees of a rural municipality who are engaged in road construction or maintenance or any duties in connection with the servicing or repair of road construction or maintenance equipment done on the job, except employees who are engaged in any duties in connection with the storage, servicing or repair of road construction or maintenance equipment that is done in the warehouse or repair shop of the rural municipality;
- (c) employees who:
 - (i) are employed as salespersons;
 - (ii) travel regularly in the course of their duties to two or more cities, towns or villages that are at least 20 kilometres apart; and
 - (iii) receive all of their remuneration as commissions with respect to sales of goods or services or offers to purchase that usually are made at a place other than the employer's establishment;
- (d) employees in the logging industry, including employees providing ancillary services such as food services and security services, but not including employees in any occupation carried on in an office, saw mill or planing mill;
- (e) employees who are care providers, other than live-in care providers;
- (f) employees who are employed by outfitters, as defined in *The Outfitter and Guide Regulations, 2004*, who are primarily engaged in outfitting;
- (g) employees who are primarily engaged in mineral exploration in that part of Saskatchewan north of Township 62, but not including any occupation carried on in an office.

(2) Sections 2-17, 2-18 and 2-19 of the Act do not apply to persons employed as salesmen as defined in *The Motor Dealers Act*.

2 May 2014 cS-15.1 Reg 5 s14.

Exemptions for certain roadbuilders

14.1(1) Subject to subsections (2) to (6), sections 2-12 and 2-17, subsections 2-18(1), (2) and (4) and (5) and section 2-19 of the Act do not apply to employees who are engaged in constructing, repairing or maintaining a highway, or assisting in those activities, if the work on a highways is being performed:

- (a) outside a city, town, village or resort village; or
 - (b) from a point or points outside any city, town, village or resort village into or through that city, town, village or resort village.
- (2) No employer shall require or permit an employee described in subsection (1) to work or to be at the employer's disposal 100 hours in any two consecutive weeks unless the employee is paid wages at the rate of 1.5 times the employee's hourly wage for each hour or part of an hour in excess of 100 hours in those two consecutive weeks.
- (3) In calculating the number of hours worked in a period of two consecutive weeks during which a public holiday occurs:
- (a) the 100-hour in each two-week period mentioned in subsection (2) is to be reduced by eight hours with respect to each public holiday that occurs in the period; and
 - (b) no account is to be taken of any time the employee is required to work or to be at the disposal of the employer on a public holiday.
- (4) Unless an employee described in subsection (1) consents otherwise, the employer of the employee shall not require or permit the employee to work or be at the employer's disposal for more than 14 hours in any given day, except in an emergency circumstance.
- (5) Every employer shall establish a fatigue management plan for employees described in subsection (1) that is recognized by the minister.
- (6) This section does not apply if the employees described in subsection (1) have a union as their bargaining agent and the employer and the union have agreed respecting the number of hours in a day or week that are to be worked before overtime is paid.

21 Sep 2018 SR 58/2018 s2.

Exemption from section 2-12, subsection 2-13(1) and sections 2-17, 2-18 and 2-19 of Act - residential-service facility workers

15(1) In this section:

- (a) **“operator”** means an operator, as defined in *The Residential-service Facilities Regulations*, who is designated by the employer for the purposes of this section;
 - (b) **“residential-service facility”** means a residential-service facility licensed pursuant to *The Residential Services Act* and the regulations made pursuant to that Act.
- (2) Section 2-12, subsection 2-13(1) and sections 2-17, 2-18 and 2-19 of the Act do not apply to an operator of a residential-service facility.
- (3) This section applies to only one person employed at a residential-service facility in any one day.

2 May 2014 cS-15.1 Reg 5 s15.

Calculation of hourly wage

16(1) 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 the employee is entitled pursuant to Part II of the Act and the regulations, the rules set out in this section and section 17 apply.

(2) If the employee is paid wages on a daily basis:

(a) the hourly wage of the employee is 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 or her employer; and

(b) for the purposes of clause (a), the number of hours of the day must not exceed the number of non-overtime hours in a day.

(3) If the employee is paid wages on a weekly basis:

(a) the hourly wage of the employee is 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 or her employer; and

(b) for the purposes of clause (a), the number of hours of the week must not exceed the number of non-overtime hours in a week.

(4) If the employee is paid wages on a monthly basis:

(a) the hourly wage of the employee is the amount HW calculated in accordance with the following formula:

$$HW = \frac{RW}{NH}$$

where:

RW is the product of:

(i) 12; and

(ii) regular wages of the employee for one month; and

NH is the amount equal to the product of:

(i) 52; and

(ii) 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 or her employer; and

(b) for the purposes of clause (a), the number of hours of the week must not exceed 40.

Calculation of hourly wage on other basis

17(1) Subject to subsections (2) to (4), if an employee is paid his or her wages on a basis other than an hourly, daily, weekly or monthly basis, the hourly wage of the employee is the amount obtained by dividing the wages of the employee earned during the pay period, exclusive of overtime, vacation pay and public holiday pay, by the actual number of hours worked during the pay period, exclusive of overtime.

(2) In making a calculation for the purposes of subsection (1), an hourly wage is to be determined as being not greater than five times the minimum wage and not less than the minimum wage.

(3) If an employee is paid wages on the basis of distance travelled, the employee's hourly wage is deemed to be the product of 64 and the rate per kilometre.

(4) If an employee is employed as a salesperson who receives all of his or her remuneration as commissions, the employee's hourly wage is deemed to be the minimum wage.

2 May 2014 cS-15.1 Reg 5 s17.

Application of section 2-13 of Act - retail trade

18(1) In this section, "**retail trade**" means the selling or offering for sale to the general public of consumer products for personal, family or household use or consumption.

(2) Subject to subsection (3), for the purposes of subsection 2-13(5) of the Act, an employer who is primarily engaged in retail trade and whose workplace has more than 10 employees shall grant to an employee who usually works or is at the disposal of the employer for 20 hours or more in a week two consecutive days of rest in a week, one of which is a Saturday or Sunday whenever possible.

(3) Subsection (2) does not apply to an employer mentioned in that subsection if:

(a) the employer's workplace is subject to a municipal bylaw requiring the workplace to be closed during the whole or part of any day of the week other than Saturday, Sunday or Monday; or

(b) the employer and employee are subject to a modified work arrangement pursuant to section 2-19 of the Act or an overtime authorization pursuant to section 2-20 of the Act.

2 May 2014 cS-15.1 Reg 5 s18.

Exemption from section 2-13 of the Act - employees engaged in controlling or suppressing fires

19 Subsections 2-13(3) to (6) of the Act do not apply to any employee engaged in the control or suppression of prairie and forest fires.

2 May 2014 cS-15.1 Reg 5 s19.

Exemption from section 2-13 of Act - live-in care providers and live-in domestic workers

20(1) Subsection 2-13(3) of the Act does not apply to:

(a) live-in care providers; or

(b) live-in domestic workers.

(2) An employer of an employee who is a live-in care provider or a live-in domestic worker shall grant to the employee a rest period of two consecutive days in every week, at a time that is mutually acceptable to the employer and the employee.

2 May 2014 cS-15.1 Reg 5 s20.

Exemption from section 2-16 of Act - care providers and live-in domestic workers

21(1) Subject to subsection (2), section 2-16 of the Act does not apply to:

- (a) care providers; or
- (b) live-in domestic workers.

(2) The minimum wage established pursuant to section 2-16 of the Act applies for the first eight hours worked in one day by a live-in care provider or a live-in domestic worker.

2 May 2014 cS-15.1 Reg 5 s21.

Cash value of board and lodging

22 The charge for board and lodging received by a live-in care provider or live-in domestic worker from the employer of the live-in care provider or live-in domestic worker must not exceed \$250 per month.

2 May 2014 cS-15.1 Reg 5 s22.

PART IV Employment Leave

Benefits while on employment leave

23(1) For the purposes of subsection 2-48(2) of the Act, the following are benefit plans that an employee is entitled to continue participating in while taking employment leave:

- (a) a medical plan;
- (b) a dental plan;
- (c) a disability or life insurance plan;
- (d) a registered retirement savings plan;
- (e) a pension plan;
- (f) an accidental death or dismemberment plan;
- (g) any plan similar to one described in clauses (a) to (f).

(2) For the purposes of subsection 2-48(2) of the Act, **“contributions required by the prescribed benefit plan”**, with respect to a pension plan, means the cost of benefits of the plan to the persons required to contribute to the plan that are accrued while taking employment leave.

2 May 2014 cS-15.1 Reg 5 s23.

PART V
Public Holidays

Application of section 2-32 of Act

24 For the purposes of section 2-32 of the Act, the minimum sum of money to be paid for public holidays for the classes of employees described in sections 25 to 28 is to be determined in the manner prescribed in those sections.

2 May 2014 cS-15.1 Reg 5 s24.

Construction

25(1) For the purposes of this section, “**construction**” means:

- (a) the construction, reconstruction, remodelling, repair, renovating, decoration or demolition of any building;
- (b) the construction, reconstruction or repair of:
 - (i) any sewer, drain or gas work;
 - (ii) any electrical, plumbing or heating undertaking;
 - (iii) any road or highway or part of a road or highway; or
 - (iv) any other work of construction;

and includes services and undertakings that are incidental to the activities described in clauses (a) and (b).

(2) Subject to any agreement made pursuant to subsection (5), the minimum sum of money to be paid for public holidays by an employer to an hourly-paid employee employed in the construction industry is:

- (a) if the employee does not work on a public holiday, 4% of the wages, exclusive of overtime and vacation pay, earned by the employee in each calendar year;
- (b) if the employee works on a public holiday, the amount calculated in accordance with clause (a), plus an additional amount equal to 1.5 times the regular rate of wages of the employee for each hour or part of an hour that the employee works or is required to be at the employer’s disposal on the public holiday.

(3) The employer shall pay the amount mentioned in clause (2)(a) to the employee on or before the earlier of:

- (a) December 31 in the calendar year in which the public holiday occurs; and
- (b) if the employee’s employment is terminated, 14 days after the day on which the termination of employment takes effect.

(4) The employer shall pay the additional amount mentioned in clause (2)(b) to the employee in the pay period in which it is earned.

(5) If, in the construction industry, a majority of the employees in an appropriate unit of employees of an employer are represented by a union for the purposes of bargaining collectively, the employer and the union may agree in writing to be governed by section 2-32 of the Act with respect to the calculation of minimum sums of money to be paid to an employee for a public holiday.

2 May 2014 cS-15.1 Reg 5 s25.

Employees operating well drilling rigs

26 The minimum sum of money to be paid for a public holiday by an employer to an employee who is engaged in the operation of a well drilling rig is:

- (a) if the employee does not work on the public holiday, the amount to which the employee would be entitled pursuant to clause 2-32(1)(a) of the Act if the employee did not work on that day; and
- (b) if the employee works on the public holiday, the total of the amount to which the employee would be entitled pursuant to clause 2-32(1)(a) of the Act if the employee did not work on that day and the employee's regular wages for the time worked.

2 May 2014 cS-15.1 Reg 5 s26.

Employees in a hospital, educational institution, nursing home, hotel or restaurant

27(1) Subject to subsection (2), full-time employees employed in a hospital, educational institution, nursing home, hotel or restaurant must be paid for a public holiday in accordance with section 2-32 of the Act.

(2) If a public holiday falls on the regular day of work of an employee to whom subsection (1) applies and the employee works on that day, the employee is entitled:

- (a) to be paid at the rate of 1.5 times the employee's regular rate of wages in addition to his or her regular wages; or
- (b) to be paid at the rate of 1.5 times the employee's regular rate of wages and, in addition, to be granted one working day off at the employee's regular wage within a four-week period during which the public holiday occurs.

2 May 2014 cS-15.1 Reg 5 s27.

Employees in commercial hog operations

28(1) Subject to subsection (2), employees employed in a commercial hog operation must be paid for a public holiday in accordance with section 2-32 of the Act.

(2) If a public holiday falls on the regular day of work of an employee to whom subsection (1) applies and the employee works on that day, the employee is entitled:

- (a) to elect by written request to receive another day as a holiday designated by the employer within one year of the public holiday; and
- (b) notwithstanding subsection 2-32(3) of the Act, to be paid regular wages for the public holiday on which the employee works and for the designated day on which the employee does not work.

2 May 2014 cS-15.1 Reg 5 s28.

Public holidays falling on Sunday

29(1) For the purposes of Subdivision 7 of Division 2 of Part II of the Act, if New Year's Day, Christmas Day or Remembrance Day falls on a Sunday, the Monday following that day is to be observed as a public holiday.

(2) Subsection (1) does not apply to an establishment that is normally open on a Sunday.

2 May 2014 cS-15.1 Reg 5 s29.

PART VI
Termination and Lay-off

Exemption from sections 2-60 and 2-61 of Act - care providers

30 Sections 2-60 and 2-61 of the Act do not apply to employees who are care providers, other than live-in care providers.

2 May 2014 cS-15.1 Reg 5 s30.

Notice re group terminations

31(1) For the purposes of clause 2-62(2)(b) of the Act, an employer shall give written notice before the termination of at least:

- (a) four weeks, if the number of employees whose employment is terminated is 10 or more but less than 50;
- (b) eight weeks, if the number of employees whose employment is terminated is 50 or more but less than 100;
- (c) 12 weeks, if the number of employees whose employment is terminated is 100 or more.

(2) An employer is exempted from providing any written notice pursuant to section 2-62 of the Act to the minister, any union and the employees, if the employees:

- (a) are employed pursuant to an arrangement by which:
 - (i) the employer may request the employee to come to work at any time for a temporary period; and
 - (ii) the employee has the option to accept or reject one or more of the requests;
- (b) are employed for a definite term;
- (c) are employed for a specific project with a completion date that is reasonably foreseeable in any industry, other than the construction industry, or occupation;
- (d) are employed in the construction industry for a specific project with a completion date that is reasonably foreseeable;
- (e) are offered and have refused reasonable alternative work or employment by the employer;
- (f) are terminated because of a seasonal reduction of the employer's operations, suspension of those operations or closure of those operations if that reduction, suspension or closure is normal for that employer;

- (g) are laid off for a period not exceeding 26 weeks;
 - (h) have reached the age of retirement that is the established age of retirement for that employer and their employment has been terminated for that reason; or
 - (i) are employed pursuant to a contract of employment that is impossible to perform due to an unforeseeable event or circumstance.
- (3) An employer is exempted from providing written notice pursuant to section 2-62 of the Act to employees if:
- (a) the employer has applied in writing to the director of employment standards; and
 - (b) the director of employment standards is satisfied that giving written notice would be prejudicial to the employer and the employees.
- (4) The Government of Saskatchewan is exempted from giving any written notice pursuant to section 2-62 of the Act with respect to employees who are not within the scope of a collective bargaining agreement and whose employment is terminated within 30 days after polling day for a general election within the meaning of *The Election Act, 1996*.

2 May 2014 cS-15.1 Reg 5 s31.

PART VII Additional Obligations of Employers

Interpretation of section 2-39 of Act and sections 34 and 35

32(1) In section 2-39 of the Act and in sections 34 and 35 of these regulations, “**benefit**” means:

- (a) the following insurance plans in which the employer pays all or part of the contributions on behalf of the employee:
 - (i) a dental plan;
 - (ii) a group life plan;
 - (iii) an accidental death and dismemberment plan;
 - (iv) a plan for employee and dependant coverage for prescription drugs;
 or
 - (b) a plan that provides coverage similar to the coverage provided by a plan described in clause (a), but that is self-funded by the employer.
- (2) In section 34, “**full-time student**” means a person who is registered for at least 60% of a full course load as:
- (a) a pupil within the meaning of *The Education Act, 1995*; or
 - (b) a student at a university, a regional college, private vocational school or the Saskatchewan Institute of Applied Science and Technology.

2 May 2014 cS-15.1 Reg 5 s32.

Calculation re number of employees

33(1) In this section, “**all employees**”, with respect to an employer, means all employees employed at all establishments of the employer.

(2) Subject to subsection (3), for the purposes of subsection 34(2) and clause 2(1)(e), the number of full-time-equivalent employees is to be calculated in accordance with the following formula:

$$\text{FTE} = \frac{\text{H}}{2,080}$$

where:

FTE is the number of full-time-equivalent employees; and

H is the sum of the total number of hours worked by all employees in the previous year and the number of paid hours associated with vacation and public holidays in the previous year.

(3) For the purposes of subsection 34(2) and clause 2(1)(e), if an employer’s business has been in existence for more than 13 weeks but less than one full year, the number of full-time-equivalent employees is to be calculated in accordance with the following formula:

$$\text{FTE} = \frac{\text{H}}{40 \times \text{W}}$$

where:

FTE is the number of full-time-equivalent employees;

H is the sum of the total number of hours worked by all employees from the date of the commencement of the employer’s business and the number of paid hours associated with vacation and public holidays from the date of commencement of the employer’s business; and

W is the total number of weeks from the date of the commencement of the employer’s business.

2 May 2014 cS-15.1 Reg 5 s33.

Eligible employees

34(1) In this section and section 35:

(a) “**eligible employee**” means an employee who is not a full-time employee and who is eligible for benefits pursuant to section 2-39 of the Act and those provisions of these regulations made for the purposes of section 2-39 of the Act;

(b) “**qualifying period**” means the period commencing on the employee’s date of hire and ending on the completion of 26 weeks after the date of hire.

(2) Section 2-39 of the Act does not apply to an employer with less than 10 full-time-equivalent employees or to the employees of that employer.

- (3) Subject to subsection (6), for the purposes of section 2-39 of the Act, an employee becomes an eligible employee when the employee has been continuously employed by the employer for the qualifying period and has worked at least 390 hours in the qualifying period.
- (4) After an employee has been employed by the employer for one year, the employee's eligibility for benefits is to be determined pursuant to subsection (5).
- (5) An employee described in subsection (4) is an eligible employee if the employee is currently employed by the employer and the employee:
- (a) subject to clause (b), worked a minimum of 780 hours in the previous year; or
 - (b) if the employee has taken an employment leave pursuant to the Act in the previous year, would have worked 780 hours in the previous year.
- (6) An employee who is a full-time student is not an eligible employee.
- (7) If an employee ceases to be a full-time student, the employee shall provide his or her employer with written notice, as soon as possible after ceasing to be a full-time student, of the employee's change of status.
- (8) If a benefit plan has its own period for qualifying before an employee is eligible to receive benefits, the plan's period for qualifying must be applied to the employee beginning on the employee's date of hire, and the employee becomes eligible to receive benefits as soon as the employee satisfies the requirements of subsection (3) or (5) and the plan's period for qualifying.
- (9) At the end of each year, the employer shall, as soon as possible, provide an employee with written notice if the employee has lost his or her eligibility pursuant to this section for benefits pursuant to section 2-39 of the Act.

2 May 2014 cS-15.1 Reg 5 s34.

Employees' entitlements

- 35(1)** If an employer provides benefits to full-time employees who perform services that are entirely of a managerial character, the employer shall provide eligible employees who perform those services with benefits in accordance with section 2-39 of the Act and these regulations.
- (2) If an employer provides benefits to full-time employees who do not perform services that are entirely of a managerial character, the employer shall provide eligible employees who do not perform those services with benefits in accordance with section 2-39 of the Act and these regulations.
- (3) Subject to subsections (4) to (7):
- (a) eligible employees described in subsection (1) are entitled to substantially the same rights and privileges as are full-time employees described in subsection (1) under the benefit plans that are provided to those full-time employees; and

- (b) eligible employees described in subsection (2) are entitled to substantially the same rights and privileges as are full-time employees described in subsection (2) under the benefit plans that are provided to those full-time employees.
- (4) Subject to subsection (5), in the absence of any benefit formula calculation that existed on February 3, 1995, an eligible employee is entitled to:
- (a) 50% of the level of benefits provided to full-time employees if the eligible employee works, on average, 15 or more hours but less than 30 hours per week; and
 - (b) 100% of the level of benefits provided to full-time employees if the eligible employee works, on average, 30 or more hours per week.
- (5) If a group life plan or accidental death and dismemberment plan provides for a benefit formula based on the employee's earnings, the level of benefit provided to eligible employees is to be calculated in the same manner as the level of benefit for full-time employees.
- (6) If an employer is required by section 2-39 of the Act and these regulations to provide to eligible employees:
- (a) a dental plan, the employer will satisfy the requirements of section 2-39 of the Act and these regulations respecting that dental plan if the employer provides a dental plan for eligible employees, but not necessarily their spouses or dependants, containing the following basic services at the level of benefits determined in accordance with subsection (4):
 - (i) routine dental examinations at least once every 12 months;
 - (ii) full mouth X-rays at least once every 24 months;
 - (iii) fillings;
 - (iv) extractions;
 - (v) oral surgery;
 - (vi) cleaning and scaling, to a maximum of eight units per year;
 - (vii) space maintainers and relining dentures;
 - (viii) repair of dentures;
 - (b) a prescription drug plan, the employer will satisfy the requirements of section 2-39 of the Act and these regulations respecting that prescription drug plan if the employer provides a prescription drug plan for eligible employees and their spouses and dependants that reimburses for the cost of drugs listed in the Saskatchewan Drug Formulary or equivalents of those drugs at the level of benefits determined in accordance with subsection (4);
 - (c) a group life plan or accidental death and dismemberment plan, the employer will satisfy the requirements of section 2-39 of the Act and these regulations respecting that plan if the employer provides a plan that covers eligible employees, but not necessarily their spouses or dependants, at the level of benefits determined in accordance with subsection (4) or (5).

(7) If a benefit plan requires contributions to be made by eligible employees, those contributions must:

- (a) be paid in the same manner as payments are required to be paid by full-time employees;
- (b) be in an amount that is in the same proportion to the contributions of full-time employees as the level of benefits to be provided to eligible employees bears to the level of benefits provided to full-time employees; and
- (c) be shared between the employer and eligible employees in the same proportion that contributions are shared between the employer and full-time employees.

2 May 2014 cS-15.1 Reg 5 s35.

PART VIII Reservists

Employment leave for reservists

36 For the purposes of section 2-53 of the Act, the following requirements apply:

- (a) the employee requesting the leave shall inform the employer in writing of the anticipated period of service;
- (b) at the employer's request, the employee requesting the leave shall provide to the employer a certificate from an official with the reserve force that:
 - (i) states that the employee is a member of the reserve force and is required for service; and
 - (ii) if possible, confirms the anticipated dates for the period of service.

2 May 2014 cS-15.1 Reg 5 s36.

PART IX Other Matters

Amount on deposit

37 For the purposes of subsection 2-75(4) of the Act, the amount of deposit required from an employer or corporate director who disputes liability or the amount set out in the wage assessment is the amount set out in the wage assessment to a maximum of \$500.

2 May 2014 cS-15.1 Reg 5 s37.

Fees on wage assessments

38(1) For the purposes of subsection 2-85(1) of the Act, the fee payable is 10% of the amount of the wage assessment with a minimum fee of \$100 and a maximum fee of \$500.

- (2) The fee mentioned in subsection (1) is payable on the date that:
 - (a) the time for an appeal has passed, if there is no appeal respecting the wage assessment; or
 - (b) the wage assessment is upheld on appeal.

2 May 2014 cS-15.1 Reg 5 s38.

Fees for compliance audits

39 For the purposes of clause 2-86(3)(a) of the Act, if a compliance audit is conducted by an employment standards officer, the employer is liable to pay a fee equal to 10% of the earnings assessed to be owing to employees.

2 May 2014 cS-15.1 Reg 5 s39.

Post-judgment interest

40 For the purposes of enforcing a certificate pursuant to Part II, Division 4 of the Act, wages includes interest calculated pursuant to section 113 of *The Enforcement of Money Judgments Act* and section 10 of *The Enforcement of Money Judgments Regulations*.

2 May 2014 cS-15.1 Reg 5 s40.

School boards and conseil scolaire

41 With respect to teachers as defined in section 2 of *The Education Act, 1995*, subclauses 2-38(1)(c)(v), (vi) and (x) to (xiii) of the Act do not apply to boards of education or the conseil scolaire.

2 May 2014 cS-15.1 Reg 5 s41.

Employee living accommodation

42 If an employer provides living accommodation for an employee, the employer shall not compel or require the employee to live in or reside in that accommodation if the accommodation is unsuitable, unsafe or unsanitary.

2 May 2014 cS-15.1 Reg 5 s42.

Service on director of employment standards

43(1) For the purposes of subsection 9-9(3) of the Act, a document or notice may be served on the director of employment standards:

- (a) by personal service during normal business hours at the business address of the director of employment standards;
- (b) by prepaid registered or certified mail addressed to the director of employment standards at the business address of the director; or
- (c) by telephone transmission to a number provided by the director of employment standards of a facsimile of the document or notice together with a cover page that indicates:
 - (i) the title of the person being served;
 - (ii) the name, address and telephone number of the sender;
 - (iii) the date and time of the transmission;
 - (iv) the number of pages transmitted, including the cover page;
 - (v) the telephone number from which the document is transmitted; and
 - (vi) the name and telephone number of a person to contact if there are transmission problems.

(2) If a document or notice is served pursuant to clause (1)(b), service is deemed to have been effected:

- (a) on the delivery date shown on the signed post office receipt card; or
- (b) if the delivery date is not shown, on the day on which the signed post office receipt card is returned to the sender.

2 May 2014 cS-15.1 Reg 5 s43.

Assignment of wages

44 An employee may authorize deductions from his or her wages as mentioned in section 2-36 of the Act for the purpose of making payments due pursuant to a maintenance order as defined in *The Enforcement of Maintenance Orders Act, 1997*.

2 May 2014 cS-15.1 Reg 5 s44.

Election officials re total wages

44.1 Subject to subsections 2-33(2) and (3) of the Act, an employer shall pay to an election official the total wages to which the election official is entitled up to a day not more than fourteen days before the employee's payday.

27 Mar 2020 SR 21/2020 s5.

PART IX.1
Public Emergencies

44.2 **Repealed.** 13 Aug 2021 SR 81/2021 s2.

44.3 **Repealed.** 13 Aug 2021 SR 81/2021 s2.

44.4 **Repealed.** 13 Aug 2021 SR 81/2021 s2.

Matters re public emergency leave

44.5 For the purposes of section 2-59.1 of the Act:

- (a) that section is deemed to apply to an employee who is required to provide care and support to the employee's adult family member who is affected by a direction or order of the Government of Saskatchewan or an order of the chief medical health officer;
- (b) the opinion of a duly qualified medical practitioner, the Government of Saskatchewan or the chief medical health officer prevails if there is a conflict of opinion between:
 - (i) the employer of the employee; and
 - (ii) the duly qualified medical practitioner as expressed in an opinion, the Government of Saskatchewan as expressed in an order or direction or the chief medical health officer as expressed in an order; and
- (c) that section does not apply to employees who have been informed, in writing, by their employer that they are necessary to provide critical public health and safety services.

22 May 2020 SR 62/2020 s2.

Protection of employees – recovery sickness benefit and recovery caregiving benefit

44.6(1) In this section:

“**recovery sickness benefit**” means the Canada Recovery Sickness Benefit established by the Government of Canada pursuant to the *Canada Recovery Benefits Act* (Canada);

“**recovery caregiving benefit**” means the Canada Recovery Caregiving Benefit established by the Government of Canada pursuant to the *Canada Recovery Benefits Act* (Canada).

(2) Notwithstanding section 2-40 of the Act, an employer shall not take discriminatory action against any employee, regardless of the length of time the employee has been in the employer's service, if the employee:

- (a) is absent from work;
 - (b) notwithstanding subsection (3), does not provide notice of the absence;
 - (c) reasonably believes the employee is eligible to receive the recovery sickness benefit or the recovery caregiving benefit; and
 - (d) is in receipt of, or will be applying for, the recovery sickness benefit or the recovery caregiving benefit.
- (3) For the purposes of this section, an employee who is absent from work shall provide the employer with notice as far as possible in advance of being absent from work or returning to work.
- (4) An employer continues to have the right to take discriminatory action against an employee in accordance with the Act and these regulations for just cause unrelated to the employee accessing the recovery sickness benefit or the recovery caregiving benefit.

5 Feb 2021 SR 5/2021 s2.

PART X

Repeal and Coming into Force

R.R.S. c.L-1 Reg 5 repealed

45 *The Labour Standards Regulations, 1995* are repealed.

2 May 2014 cS-15.1 Reg 5 s45.

Coming into force

46(1) Subject to subsection (2), these regulations come into force on the day on which section 2-1 of *The Saskatchewan Employment Act* comes into force.

(2) If section 2-1 of *The Saskatchewan Employment Act* comes into force before the day on which these regulations are filed with the Registrar of Regulations, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

2 May 2014 cS-15.1 Reg 5 s46.