

Interpretive Guide

The Saskatchewan Employment Act, Parts III, IV, V and IX

2014

PLEASE NOTE

This guide is designed to provide a plain language explanation of provisions of *The Saskatchewan Employment Act*, Parts III, IV, V and IX, for all provincially regulated workplaces. The guide is not a substitute for the legislation and the reader should consider the guide in conjunction with the relevant provisions of the law.

Industries under federal jurisdiction, such as transportation, broadcasting and telecommunications, are governed by the *Canada Labour Code*. If you work in a federally regulated industry, please contact Human Resources and Development Canada at

www.hrsdc.gc.ca.

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The Saskatchewan Employment Act (Act) – Overview

This interpretive guide will explain, in plain language, particular provisions of *The Saskatchewan Employment Act* (the Act).

What is *The Saskatchewan Employment Act*?

The Saskatchewan Employment Act is a consolidation of 12 existing pieces of legislation under **one** cover.

The Purpose of the Act

The purpose of the Act is to:

- govern workplace safety;
- govern employment standards;
- govern relationships between employers and unions;
- provide individual protections, standards and benefits; and
- enhance and reflect the realities of modern workplaces and work practices for Saskatchewan.

Legislation Included in *The Saskatchewan Employment Act*

The Act consolidates the following 12 pieces of legislation:

- *The Assignment of Wages Act*
- *The Building Trades Protection Act*
- *The Construction Industry Labour Relations Act, 1992*
- *The Employment Agencies Act*
- *The Fire Departments Platoon Act*
- *The Health Labour Relations Reorganization Act*
- *The Labour-Management Dispute (Temporary Provisions) Act*
- *The Labour Standards Act*
- *The Occupational Health and Safety Act, 1993*
- *The Radiation Health and Safety Act, 1985*
- *The Trade Union Act*
- *The Wages Recovery Act*

How the Act is Organized

The Act is organized as follows:

PART I	Preliminary Matters
PART II	Employment Standards
PART III	Occupational Health and Safety
PART IV	Appeals and Hearings re: Parts II and III
PART V	Radiation Health and Safety
PART VI	Labour Relations
PART VII	Public Service Essential Services
PART VIII	Labour-Management Actions (Temporary Measures During an Election)
PART IX	Assignment of Wages
PART X	Repeal and Consequential Amendments

How to Read the Act

To read about the Occupational Health and Safety legislation for the ‘General duties of workers’, turn to Part III Occupational Health and Safety, Division 3, Section 3-10. See the example below.

DIVISION 3

Duties

3-8 General duties of employer

3-9 General duties of supervisors

3-10 General duties of workers

3-11 General duties of self-employed persons

3-12 General duties of contractors

3-13 General duties of Prime Contractors at certain multi-employer worksites

3-14 General duties of owners

3-15 General duties of suppliers

Things to Remember about the Act

- Radiation Safety provisions are located in Part V of the Act.
- Provisions for OHS Appeals and Hearings are located in Part III and Part IV of the Act.

Bill 85 Amendments to Occupational Health and Safety

With the implementation of *The Saskatchewan Employment Act*, particular amendments have been made to occupational health and safety legislation.

Prime Contractors (Act, 3-13)

A Prime Contractor is responsible for coordinating the health and safety activities at multi-employer worksites. In addition to the Act, the duties of Prime Contractors are defined within *The Occupational Health and Safety (Prime Contractor) Regulations*.

Certain multi-employer worksites will be required to have a Prime Contractor, while others will not. A Prime Contractor is required if:

- there are ten or more self-employed persons or workers under the direction of two or more employers at a worksite; and
- the worksite concerns one or more of the following industries:
 - construction (excluding construction or renovation to residential dwellings consisting of less than four units);
 - forestry; and
 - oil and gas.

The duties of Prime Contractors include the following:

- identifying and informing employers, workers and self-employed persons about worksite hazards for which the Prime Contractor is responsible;
- ensuring insofar as reasonably practicable that the employers or self-employed persons at a worksite eliminate hazards identified by the Prime Contractor before activities or operations begin on the worksite and after they have commenced;
- ensuring that the employers of self-employed people at a worksite reduce or control hazards that cannot be reasonably eliminated;
- ensuring that the contact information of the Prime Contractor is posted in a conspicuous location at the worksite;
- ensuring that all activities at the worksite that may affect health and safety are coordinated;
- ensuring, as far as reasonably practicable, that all employers and self-employed persons have adequate and appropriate occupational health and safety policies and procedures, safe work practices and equipment, and competent and informed workers;
- identifying a competent person to oversee and direct, on behalf of the Prime Contractor, the activities of employers and self-employed persons at the worksite; and
- preparing a written plan that explains how the requirements are to be met and delivering a copy of the written plan to all employers and self-employed persons before any work commences.

Penalties (Act, 3-79)

Penalties are an important tool for ensuring compliance with the Act and serve as a strong deterrent for non-compliance with this legislation.

The Act contains increases to all of the penalties related to occupational health and safety contraventions. Also, the maximum penalties for offences that cause the serious injury or death of a worker have been increased.

In most cases, the maximum penalties have been doubled from those provided in previous occupational health and safety legislation. However, note that the maximum fines for those guilty of an offence that causes the death or serious injury of a worker have changed to:

- For individuals, a maximum of \$500,000; and
- For corporations, a maximum of \$1,500,000.

While the maximum penalties are set by the legislation, the actual amount charged to an individual or corporation is at the discretion of a the Court.

Appeals (Act, Part III and Part IV)

Part III and IV of the Act outline the appeals processes for decisions issued by the Occupational Health and Safety Division.

Appeals of Division decisions continue to be heard by Adjudicators appointed pursuant to Part III of the Act.

Note that, with the amendments:

- the powers and duties of the Adjudicators are maintained;
- the Labour Relations Board will be responsible for assigning Adjudicators to hearings;
- the decisions of Adjudicators can be appealed to the Labour Relations Board; and
- the decisions of the Labour Relations Board can be appealed to the Court of Appeal.

Radiation Health and Safety (Part V)

Several changes have been made to radiation health and safety provisions.

The Radiation Health and Safety Act, 1995 has been incorporated within Part V of *The Saskatchewan Employment Act*.

There have been **three** major changes to radiation health and safety provisions.

The first change is found in section 5-23, which covers offences. The maximum penalty for non-compliance with the radiation health and safety legislation has increased from \$15,000 to \$100,000. The maximum penalty for an ongoing radiation health and safety offence has increased from \$1,500 per day to \$15,000 per day.

The second major change is in section 5-24 concerning the Lieutenant Governor in Council's authority to make regulations regarding radiation health and safety. In addition to his/her previous duties, the Lieutenant Governor now has the authority to make regulations without consulting with the Radiation Health and Safety Committee.

The third major change is in section 5-21 concerning the Radiation Health and Safety Committee. A veterinarian and a uranium expert will be appointed to the Radiation Health and Safety Committee to ensure that all workplaces that use radioactive devices are represented.

Definitions

The following definitions assist in the reading of this interpretive guide.

Consult

Employers must ‘consult’ in good faith with workplace Occupational Health Committees. While not obliged to obtain the approval or permission of a Committee, an employer is obliged to consider, in good faith, the views and opinions of the Committee prior to making a decision affecting the health and safety of workers. To fulfill its obligation to consult in good faith, an employer must provide the Committee with the following opportunities:

- **to be informed** of information essential to making a reasonable and informed assessment;
- **to review and assess** the information and possible alternatives or options;
- **to comment** and/or make recommendations on the possible options and alternatives; and
- **to be considered.** This means the employer will consider the recommendations of the Committee and, where applicable, give the Committee credible reasons for not accepting or implementing the Committee’s recommendations.

Due Diligence

‘Due diligence’ is a term used to describe carrying out duties and responsibilities. When applied to occupational health and safety, due diligence means everyone shall take all reasonable precautions, under the circumstances, to prevent injuries or incidents in the workplace and avoid an offence against the law.

Duty

A ‘duty’ is a broadly stated obligation.

Ensure

Where legislation makes someone responsible for ‘ensuring’ that others comply, the responsible person is deemed to have complied if that person can show that he or she took all reasonable steps to ensure compliance.

Individual

An ‘individual’ is an individual human being.

Liability

Generally, a duty falls primarily on the person with the greatest control over the situation. If that person does not comply, this does not necessarily remove the obligation of others. In other words, if the employer, contractor or other person charged with a duty under the legislation does not comply with a requirement, this does not necessarily remove the duty of another party such as a supervisor to comply. While one person is complying with a requirement and thereby ensuring the health and safety of workers, others are relieved of their obligations under the conditions outlined in subsections 5(7) and (8) of *The Occupational Health and Safety Regulations, 1996*.

Person

A 'person' can be both an individual human being as well as a corporation. Persons pursuant to occupational health and safety legislation can be employers, contractors, Prime Contractors, self-employed persons, owners, suppliers, supervisors or workers.

Place of Employment

A 'place of employment' means any plant in or on which one or more workers or self-employed persons work, usually work or have worked.

Plant

A 'plant' includes any premises, site, land, mine, water, structure, fixture or equipment employed or used in the carrying on of an occupation.

Readily Available

If a document is to be maintained in a form that is 'readily available', it must be able to be produced at the time it is requested by an Occupational Health Officer and accessible to workers without them having to ask permission.

Reasonably Practicable

The criteria one must consider when determining if compliance with the Act is 'reasonably practicable' include both a technical and economical aspect of compliance. 'Practicable', in this case, means that the action is possible given current knowledge, technology and invention. 'Reasonably practicable' means practicable unless the person on whom a duty is placed can show that there is a gross disproportion between the benefit of the duty and the cost, time, trouble and money of the measures to secure the duty. The greater the risk, the greater the health and safety measures required. This is the standard by which employers must ensure the health, safety and welfare of their workers.

Responsibility

A 'responsibility' specifies what must be done to meet the requirements set by a duty.

Workplace Responsibility System

Occupational health and safety legislation supports the right of workers to have a safe and healthy workplace. It requires everyone in the workplace to work together co-operatively to prevent workplace injuries and illnesses. This is referred to as the 'workplace responsibility system'. Because employers have the greatest degree of control over the workplace, they also have the greatest degree of legal responsibility for health and safety. But this does not relieve supervisors and workers from their duty to co-operate in controlling workplace hazards and to take the necessary precautions to protect themselves and others from hazards. The ultimate goal of this system is to ensure everyone integrates health and safety into their work.

Only workers who are adequately informed and empowered can effectively fulfill their responsibilities. Occupational health and safety legislation grants three important rights to workers:

- **the right to know** about workplace hazards, including how to identify hazards and protect themselves from those hazards and about the rights afforded to workers under occupational health and safety legislation;
- **the right to participate** in decisions related to occupational health and safety, free of reprisal for their participation (participation is achieved through consulting with or serving as an Occupational Health Committee member or Representative); and
- **the right to refuse** unusually dangerous work.

Employers are prohibited from imposing discipline or other sanctions on workers for fulfilling their responsibilities or exercising their rights.

Section 1-2

Interpretation of *The Saskatchewan Employment Act*

Legislation	Interpretation
(1)(a) “ board ” means the Labour Relations Board continued pursuant to section 6-92;	<p>In the Act, the term ‘Board’, refers to the Labour Relations Board. This term is relevant with regard to the provisions concerning appeals provided for in Parts III and IV of <i>The Saskatchewan Employment Act</i>.</p> <p>Note: The Board is responsible for assigning Adjudicators to hear appeals of decisions of the Occupational Health and Safety Division.</p>
(1)(b) “ business day ” means a day other than a Saturday, Sunday or holiday;	The definition of ‘ business day ’ clarifies when a notice described in section 9-9 has been received for the purpose of counting the notice period of appeals made under the Act.
(1)(d) “ minister ” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;	The term ‘ minister ’ refers to the Minister of Labour Relations and Workplace Safety.
(1)(e) “ ministry ” means the ministry over which the minister presides;	The term ‘ ministry ’ replaces any previous use of the term ‘department’.
(1)(f) “ prescribed ” means prescribed in the regulations made by the Lieutenant Governor in Council.	<p>The term ‘prescribed’ refers to any additional rules, guidelines, or directions required by law in the regulations.</p> <p>For example, Table 7 of the Appendix of the regulations lists the workplaces who are required to establish and maintain an Occupational Health Committee.</p>

<p><i>(2) A reference in a Part to “regulations made pursuant to this Part” is to be read as a reference to regulations made pursuant to that Part and to section 9-12.</i></p>	<p>Every Part of the Act has accompanying regulations. The regulations give details and additional information about how to comply with the Act. The phrase, “regulations made pursuant to this Part” is designed to alert people to reference the regulations for <i>The Saskatchewan Employment Act</i>, Parts III, IV, and V. These regulations are:</p> <ul style="list-style-type: none">• <i>The Occupational Health and Safety Regulations, 1996;</i>• <i>The Radiation Health and Safety Regulations, 1995;</i> and• <i>The Mines Regulations, 2003</i> <p>View or download these regulations at www.qp.gov.sk.ca.</p>
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Section 3-1 Interpretation of Part

Purpose: Subsection 3-1 was amended to include the definition of ‘**prime contractor**’.

Legislation	Interpretation
1(y) <i>“prime contractor” means the person who is the prime contractor in accordance with subsections 3-13;</i>	A ‘ prime contractor ’ is the project owner, or someone designated by the project owner, who is responsible for coordinating the health and safety activities a multi-employer worksites.

Section 3-13

General duties of Prime Contractors at multi-employer worksites

Purpose: The addition of section 3-13 formalizes the coordination of health and safety activities at certain multi-employer worksites.

Legislation	Interpretation
<p><i>(1) Every worksite must have a prime contractor if the worksite:</i></p> <p style="padding-left: 40px;"><i>(a) has multiple employers or self-employed persons; and</i></p> <p style="padding-left: 40px;"><i>(b) meets the prescribed circumstances.</i></p> <p><i>(2) The prime contractor for a worksite mentioned in subsection (1) is to be determined in the prescribed manner.</i></p> <p><i>(3) The prime contractor for a worksite shall carry out the prescribed activities.</i></p>	<p>Certain multi-employer worksites will be required to have a Prime Contractor, while others will not.</p> <p>A Prime Contractor is required if:</p> <ul style="list-style-type: none"> • there are 10 or more self-employed persons or workers under the direction of two or more employers; and • the work concerns in the following industries: <ul style="list-style-type: none"> ➤ construction (excluding construction or renovation to residential dwellings consisting of four or less units); ➤ forestry; and ➤ oil and gas. <p>The Prime Contractor will also have prescribed activities (roles and responsibilities). The duties include, but are not limited to:</p> <ul style="list-style-type: none"> • identifying and informing employers and self-employed persons about hazards for which the Prime Contractor is responsible; • ensuring insofar as reasonably practicable that the employers or self-employed persons at a worksite eliminate hazards identified by the Prime Contractor before activities or operations begin on the worksite and after they have commenced;

- ensuring that the employers of self-employed people at a worksite reduce or control hazards that cannot be reasonably eliminated;
- ensuring that the contact information of the prime contractor is posted in a conspicuous location at the worksite;
- ensuring that all activities at the worksite that may affect health and safety are coordinated;
- ensuring, as far as reasonably practicable, that all employers and self-employed persons have adequate and appropriate occupational health and safety policies and procedures, safe work practices and equipment and competent and informed workers;
- identifying a competent person to oversee and direct, on behalf of the Prime Contractor, the activities of employers and self-employed persons at the worksite; and
- preparing a written plan that explains how the requirements are to be met and delivering a copy of the written plan to all employers and self-employed persons before any work commences.

Section 3-19

Duty to provide occupational health and safety service

Purpose: Section 3-19 adds clarity to the legislated authority of the Minister to direct the provision of occupational health and safety services.

Legislation	Interpretation
<p>(1) <i>The minister may designate in writing a place of employment or a category of places of employment as requiring an occupational health and safety service, having regard to:</i></p> <p style="padding-left: 40px;">(a) <i>the type of work being carried on;</i></p> <p style="padding-left: 40px;">(b) <i>the number of workers employed; and</i></p> <p style="padding-left: 40px;">(c) <i>the degree of hazard at the place or places of employment.</i></p> <p>(2) <i>An employer operating at a place of employment designated pursuant to subsection (1) shall establish and maintain an occupational health and safety service for the place of employment.</i></p> <p>(3) <i>The minister may specify in writing the services that are to be provided by the occupational health and safety service for a designated place of employment.</i></p> <p>(4) <i>The establishment and continued operation of an occupational health and safety service is subject to the direction of the minister.</i></p> <p>(5) <i>Nothing in this section is to be interpreted as limiting or replacing the duties or requirements imposed on employers and workers by this Part or the regulations made pursuant to this Part, including any duties related to occupational health committees or occupational health and safety representatives.</i></p>	<p>Section 3-19 grants the Minister of Labour Relations and Workplace Safety the authority to order an employer to establish an occupational health and safety service, and further specify the nature of this service.</p> <p>An ‘occupational health and safety service’ is defined in clause 3-1(1)(q) of the Act. It is a service organized in or near a place of employment for the purpose of protecting workers from hazards, contributing to workers’ mental or physical adjustment and contributing to the establishment and maintenance of a high degree of physical and mental well-being in workers.</p> <p>A Minister’s direction must be in ‘writing’ so that there is no ambiguity as to the class or services a place of employment is being directed to acquire.</p> <p>Subsection 5 clarifies that the establishment of an occupational health and safety service does not replace an Occupational Health Committee or Occupational Health and Safety representative in any fashion.</p>

Section 3-27

Duties of Committees

Purpose: Section 3-27 clarifies that other workplace committees do not replace any function of an established occupational health committee.

Legislation	Interpretation
<p><i>(1) The duties of an occupational health committee are the following:</i></p> <p><i>(a) to participate in the identification and control of health and safety hazards in or at the place of employment;</i></p> <p><i>(b) to co-operate with the occupational health and safety service, if any, established for the place of employment;</i></p> <p><i>(c) to establish, promote and recommend the means of delivery of health and safety programs for the education and information of workers;</i></p> <p><i>(d) to maintain records with respect to the duties of the committee pursuant to this section;</i></p> <p><i>(e) to investigate any matter mentioned in section 3-31;</i></p> <p><i>(f) to receive, consider and resolve matters respecting the health and safety of workers;</i></p> <p><i>(g) to carry out any other duties that are specified in this Part or the regulations made pursuant to this Part.</i></p>	<p>An occupational health committee's work includes the following tasks:</p> <ul style="list-style-type: none"> • helping employers identify, assess and control hazards; • making recommendations to the employer regarding improvements to workplace health and safety; • talking with workers about health and safety concerns, and helping to resolve these concerns; • encouraging better communication between employers and workers; • receiving and distributing information, including Occupational Health and Safety Division publications; • regularly inspecting its workplace; • investigating reportable incidents and dangerous occurrences (called 'near misses'); • helping to establish and promote health and safety programs, policies and training; • investigating refusals to work; and • helping employers meet requirements pursuant to occupational health and safety legislation.

(2) An employer or contractor shall ensure that the duties of the occupational health committee imposed by this Part or the regulations made pursuant to this Part are not diminished by any other committee established within the place of employment by the employer or contractor.

The addition of subsection (2) clarifies that the existence of any other committee within a place of employment does not replace any function of an occupational health committee that is required to be established pursuant to section 3-22 of the Act, or ordered to be put in place pursuant to section 3-23 of the Act.

NOTE: To allow Occupational Health Officers to re-focus their attention on lowering Saskatchewan's workplace injury rates, Section 42 of *The Occupational Health and Safety Regulations, 1996*, has been amended to cease the submission of minutes to the OHS Division.

As of June 1, 2014, OHCs are no longer required to submit committee minutes to the Occupational Health and Safety Division.

Under the new changes, OHCs are required to continue with scheduled committee meetings and duties, including taking minutes and providing copies to their employers. Employers are required to keep the minutes on file in a central, accessible location and ensure they are readily available for workers, OHC members, and Occupational Health Officers who may need to view them at any time. Failing to maintain a committee and keeping minutes of committee meetings in accordance with the law may result in enforcement action up to and including prosecution.

Continue to notify the OHS Division with committee updates such as newly formed committees and new co-chairs.

Section 3-52

Appeals

Purpose: Section 3-52 defines the terms that apply to appeals. Further, this section clarifies which persons have standing to appeal a decision of an Occupational Health Officer.

Legislation	Interpretation
<p>(1) <i>In this Division:</i></p> <p>(a) <i>“adjudicator” means an adjudicator appointed pursuant to Part IV;</i></p> <p>(b) <i>“decision” includes:</i></p> <p>(i) <i>a decision to grant an exemption;</i></p> <p>(ii) <i>a decision to issue, affirm, amend or cancel a notice of contravention or to not issue a notice of contravention; and</i></p> <p>(iii) <i>any other determination or action of an occupational health officer that is authorized by this Part.</i></p>	<p>The term ‘adjudicator’ refers to an Adjudicator who has been appointed by the Lieutenant Governor in Council following appropriate consultation by the Minister with labour organizations and employer associations.</p> <p>Adjudicators are assigned to specific appeal hearings by the Labour Relations Board.</p> <p>The term ‘decision’ includes the following:</p> <ul style="list-style-type: none"> • granting an exemption; • issuing, affirming, amending or canceling a notice of contravention or not issuing a notice of contravention; and • any other authorized decision/action made by an Occupational Health Officer.

(2) In this Division and in Part IV, “**person who is directly affected by a decision**” means any of the following persons to whom a decision of an occupational health officer is directed and who is directly affected by that decision:

- (a) a worker;
- (b) an employer;
- (c) a self-employed person;
- (d) a contractor;
- (e) a prime contractor;
- (f) an owner;
- (g) a supplier;
- (h) any other prescribed person or member of a category of prescribed persons;

but does not include any prescribed person or category of prescribed persons.

Subsection (2) clarifies that only workers, employers, self-employed persons, contractors, owners, suppliers or any other person or member of a category of persons specified in the regulations may appeal the decision of an Occupational Health Officer. The regulations may exclude particular persons from having a right to appeal. Also, a ‘**category of persons**’ specified in the regulations does not have standing to appeal on its own. Rather it is the individual members who make up the category that enjoy this right of appeal.

Section 3-53

Appeal of Occupational Health Officer decision

Purpose: Section 3-53 provides for appeals to both the Executive Director of Occupational Health and Safety and to an Adjudicator.

Legislation	Interpretation
<p><i>(1) A person who is directly affected by a decision of an occupational health officer may appeal the decision.</i></p> <p><i>(2) An appeal pursuant to subsection (1) must be commenced by filing a written notice of appeal with the director of occupational health and safety within 15 business days after the date of service of the decision being appealed.</i></p> <p><i>(3) The written notice of appeal must:</i></p> <ul style="list-style-type: none"> <i>(a) set out the names of all persons who are directly affected by the decision that is being appealed;</i> <i>(b) identify and state the decision being appealed;</i> <i>(c) set out the grounds of the appeal; and</i> <i>(d) set out the relief requested, including any request for the suspension of all or any portion of the decision being appealed.</i> <p><i>(4) Subject to subsection (10) and section 3-54, an appeal pursuant to subsection (1) is to be conducted by the director of occupational health and safety.</i></p>	<p>Subsection 3-53(2) specifies the timeframe under which a person may appeal a decision of an Occupational Health Officer. Persons may appeal decisions within 15 business days after the date of service of the decision. A ‘business day’ is defined in clause 1-2(b) of the Act as a day other than a Saturday, Sunday or holiday. By this definition 15 business days does not extend the time for filing a notice of appeal, but rather the amendment counts the time for appeal from when the decision is served rather than when the decision is issued.</p> <p>When and how is a person served with a decision of an Occupational Health Officer?</p> <p>Subsection 9-9(2) to the Act specifies the means by which a person may be served with a decision of an Occupational Health Officer.</p>

(5) In conducting an appeal pursuant to subsection (1), the director of occupational health and safety shall:

(a) provide notice of the appeal to persons who are directly affected by the decision; and

(b) provide an opportunity to the persons who are directly affected by the decision to make written representations to the director as to whether the decision should be affirmed, amended or cancelled.

(6) The written representations by a person mentioned in clause (5)(b) must be made within:

(a) 30 days after notice of appeal is provided to that person; or

(b) any further period permitted by the director of occupational health and safety.

(7) The director of occupational health and safety is not required to give an oral hearing with respect to an appeal pursuant to subsection (1).

(8) After conducting an appeal in accordance with this section, the director of occupational health and safety shall:

(a) affirm, amend or cancel the decision being appealed; and

(b) provide written reasons for the decision made pursuant to clause (a).

Anyone appealing an Officer's decision to the Executive Director must do so in writing and the appeal must be received by the Executive Director within 15 business days from the date of service of the decision.

Subsection 3-53(3) sets out what information an appeal must contain, such as the grounds for the appeal, and what the appellant wants done to correct the situation.

An appeal to the Executive Director initiates an administrative review of an Occupational Health Officer's decision. Following this review, a written decision will be issued that either affirms, amends or cancels the decision of the Officer. The Executive Director does not conduct a live hearing of the matter before reaching a decision.

The Executive Director, rather than hearing an appeal, can refer the appeal to an Adjudicator.

(9) The director of occupational health and safety shall serve a copy of a decision made pursuant to subsection (8) on all persons who are directly affected by the decision.

(10) Instead of hearing an appeal pursuant to this section, the director of occupational health and safety may refer the appeal to an adjudicator by forwarding to the adjudicator:

(a) the notice of appeal;

(b) all information in the director's possession that is related to the appeal; and

(c) a list of all persons who are directly affected by the decision.

Section 3-56

Appeal of Director's decision to Adjudicator

Purpose: Section 3-56 provides for the appeal of decisions of the Executive Director to an independent, third-party Adjudicator.

Legislation	Interpretation
<p><i>(1) A person who is directly affected by a decision of the director of occupational health and safety made pursuant to section 3-53(8) may appeal the decision to an adjudicator in accordance with subsection (2) within 15 business days after the date of service of the decision.</i></p> <p><i>(2) An appeal pursuant to subsection (1) is to be commenced by filing a written notice of appeal with the director that:</i></p> <ul style="list-style-type: none"> <i>(a) sets out the names of all persons who are directly affected by the decision appealed;</i> <i>(b) identifies and states the decision appealed;</i> <i>(c) sets out the grounds of the appeal; and</i> <i>(d) sets out the relief requested, including any request for the suspension of all or any portion of the decision appealed.</i> 	<p>Section 3-56 grants persons the right to appeal a decision of the Executive Director of Occupational Health and Safety to an Adjudicator.</p> <p>Subsection 3-56(1) specifies that persons may appeal a decision of the Executive Director within 15 business days after the date of service of the decision. A 'business day' is defined in clause 1-2(b) of the Act as a day other than a Saturday, Sunday or holiday.</p> <p>All notices of appeal pursuant to section 3-56 must be in writing, delivered to the attention of the Executive Director of Occupational Health and Safety within the time specified, and include all of the following information:</p> <ol style="list-style-type: none"> 1. the names of all persons who are directly affected by the decision that is being appealed; 2. an identification of the specific decision that is being appealed; 3. a statement of the reasons why the appeal is being commenced; and 4. details of what outcome the person appealing wants to have happen.

Section 3-63

Inspections

Purpose: Section 3-63 sets out the authority of Occupational Health Officers to conduct inspections within workplaces. In particular, this section grants Officers the power to require, inspect and take copies of records kept pursuant to the Act or concerning workers' health and safety training.

Legislation	Interpretation
<p><i>(1) Subject to subsection (4), an occupational health officer may enter any premises, place of employment, worksite or vehicle and conduct an inspection for the purpose of:</i></p> <p><i>(a) preventing work-related incidents, injuries or illnesses;</i></p> <p><i>(b) ascertaining the cause and particulars of a work-related incident, injury or illness or of an incident that had the potential to cause a work-related incident, injury or illness;</i></p> <p><i>(c) making an inquiry in response to a complaint concerning occupational health and safety; or</i></p> <p><i>(d) determining whether there is compliance with this Part, the regulations made pursuant to this Part, a compliance undertaking, a notice of contravention or an order issued pursuant to a prescribed Act or regulation.</i></p>	<p>Subsection 3-63 provides that an Occupational Health Officer can enter any place, place of employment, worksite or vehicle to conduct an inspection in order to:</p> <ul style="list-style-type: none"> • prevent incidents, injuries and illnesses; • determine the causes and details of a workplace incident, injury or illness; • determine the cause and details of a dangerous-occurrence that could have resulted in a workplace incident, injury or illness; • respond to an occupational health and safety complaint; and • determine if a workplace is complying with the occupational health and safety legislation, a compliance undertaking, a notice of contravention or any other order issued by the Division as a result of the enforcement or administration of its legislation.

(2) *An inspection may be conducted:*

(a) *at any reasonable time; or*

(b) *at any other time if the occupational health officer has reasonable grounds to believe that a situation exists that is or may be hazardous to workers.*

(3) *When conducting an inspection in accordance with subsection (1), an occupational health officer may do all or any of the following things:*

(a) *make any inquiry the officer considers appropriate;*

(b) *require the use of any machinery, equipment, appliance or thing located at the place or premises to be demonstrated;*

(c) *conduct any tests, take any samples and make any examinations that the officer considers necessary or advisable;*

(d) *take one or more persons to any place to assist the officer and make arrangements with the person in charge of the place for those persons to re-enter the place to perform specified duties;*

Subsection 3-63(2) provides that an Officer may conduct an inspection at any reasonable time or at any other other time where the Officer has grounds to believe that a hazardous situation for workers exists.

Clauses 3-63(3)(a) through (d) provide that Officers may:

- ask any questions the Officer deems appropriate;
- ask a person to demonstrate the use of any machinery, equipment, appliance or other thing at the place of employment;
- conduct tests, take samples and make examinations that the Officer deems necessary; and
- take one or more persons to any place to assist the Officer in the inspection.

Clauses 3-63(3)(e) through (g) empower Officers to require the production of, and to inspect or take copies of, any records that exist in the possession of a person that are to be kept pursuant to the Act or concern the training of workers on matters related to occupational health and safety.

Clauses 3-63(3)(i) and (j) permit Occupational Health Officers to require the help of workers at a place of employment to assist with retrieving and producing information needed that is stored electronically for the purposes of completing an inspection.

- (e) require the production of, inspect and make copies of any books, records, papers or documents or of any entry in those books, records, papers or documents required to be kept by this Part or the regulations made pursuant to this Part;*
- (f) require the production of, inspect and make copies of any existing records related to training workers on matters related to occupational health and safety;*
- (g) subject to subsection (5), remove any books, records, papers or documents examined pursuant to this section for the purpose of making copies where a copy is not readily available, if a receipt is given;*
- (h) require any person whom the officer finds in or at a place of employment to provide the officer with any information the person has respecting the identity of the employer at that place of employment;*
- (i) require any person to provide the officer with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information;*

(j) in order to produce information and records mentioned in this subsection, use any computer hardware or software or any other data storage, processing or retrieval device or system that is used by the person required to deliver the information and records.

(4) An occupational health officer shall not enter a private dwelling without a warrant issued pursuant to section 3-68 unless the occupant of the dwelling consents to the entry.

(5) An occupational health officer who removes any books, records, papers or documents pursuant to this section for the purpose of making copies shall:

(a) make those copies as soon as is reasonably possible; and

(b) promptly return the books, records, papers or documents from which the copies were made to:

(i) the place from which they were removed; or

(ii) any other place that may be agreed to by the officer and the person who produced them.

Section 3-64

Obtaining information

Purpose: Section 3-64 grants the Executive Director of the Occupational Health and Safety Division the authority to require any person to provide information to the Division. Further, this section places a duty on employers to compile injury and illness statistics in prescribed circumstances, and to provide this information to workers.

Legislation	Interpretation
<p><i>(1) For the purpose of obtaining any information that is required to determine compliance with this Part or the regulations made pursuant to this Part or is otherwise required for the performance of the duties or the exercise of the powers of the director of occupational health and safety, an occupational health officer, the chief occupational medical officer or the chief mines inspector, the director of occupational health and safety may direct any person to provide the director with any information in any form and manner and within any time that the director may specify.</i></p> <p><i>(2) In the prescribed circumstances, an employer shall compile occupationally related injury and illness statistics for the place of employment.</i></p> <p><i>(3) An employer shall:</i></p> <ul style="list-style-type: none"> <i>(a) compile statistics in the prescribed manner; and</i> <i>(b) ensure that the compilation of the statistics pursuant to clause (a) includes the prescribed matters.</i> 	<p>Section 3-64 grants the Executive Director of the Occupational Health and Safety Division the authority to require any person to provide information to the Division that is required by the Division to carry out its duties. The Executive Director has discretion to specify the form, manner and timeframe in which this information is provided.</p> <p>Subsections 3-64(2) through (5) place requirements on employers in prescribed circumstances to compile injury and illness statistics. Further, employers must post these statistics and provide this information to the occupational health committee or representative or to workers if the workplace has no committee or representative.</p>

(4) The statistics must be compiled and provided in a manner that protects the confidentiality of workers.

(5) The employer shall:

(a) post the statistics for the information of workers; and

(b) provide the statistics to:

(i) if there is an occupational health committee, the occupational health committee;

(ii) if there is an occupational health and safety representative, the occupational health and safety representative; or

(iii) if there is no occupational health committee or occupational health and safety representative, the workers.

Section 3-67

Inquiries

Purpose: Section 3-67 grants Occupational Health Officers the power to conduct interviews in matters of workplace fatalities, serious injuries or allegations of harassment.

Legislation	Interpretation
<p><i>(1) Subject to subsection (2), an occupational health officer may require any person who the occupational health officer has reasonable cause to believe possesses any information respecting a work related fatality, serious injury or allegation of harassment to attend an interview and provide full and correct answers to any questions that the occupational health officer believes it necessary to ask.</i></p> <p><i>(2) An interview held pursuant to subsection (1) is to be held in the absence of persons other than:</i></p> <p style="padding-left: 40px;"><i>(a) a person nominated to be present by the person being interviewed; and</i></p> <p style="padding-left: 40px;"><i>(b) any other persons whom the occupational health officer may allow to be present.</i></p> <p><i>(3) No person shall fail to comply with a requirement imposed on the person pursuant to this section.</i></p>	<p>Occupational Health Officers are empowered to interview any person who the Officer believes can provide information about a work-related fatality, serious injury or allegation of harassment.</p> <p>The only persons who are permitted to attend such an interview, aside from the Officer and the interviewee, are:</p> <ul style="list-style-type: none"> • a person selected to be present by the interviewee; and • any other person who the Officer allows to be present.

Section 3-78

Offences

Purpose: Section 3-78 was amended to increase the penalties associated with occupational health and safety.

Legislation	Interpretation
<p><i>3-78 No person shall:</i></p> <p><i>(a) fail to comply with any term or condition imposed on that person by a notice of contravention;</i></p> <p><i>(b) intentionally obstruct the director of occupational health and safety, the chief occupational medical officer, the chief mines inspector or an occupational health officer in the exercise of his or her powers or the performance of his or her duties;</i></p> <p><i>(c) fail to reasonably cooperate with the director of occupational health and safety, the chief occupational medical officer, the chief mines inspector or an occupational health officer in the exercise of his or her powers or the performance of his or her duties;</i></p> <p><i>(d) make or cause to be made a false entry in any register, book, notice or other document to be kept by the person pursuant to this Part or the regulations made pursuant to this Part, or delete or destroy any true or proper entry in any of those documents;</i></p> <p><i>(e) take discriminatory action against a worker contrary to section 3-35;</i></p>	<p>Violators of provisions of the Act concerning occupational health and safety can be subject to a prosecution within the Justice system. If found guilty by a Court, parties who commit such offences may be subject to a fine.</p> <p>For occupational health and safety fines, the maximum penalty is set by legislation, but the actual amount of the penalty is at the discretion of the Court.</p>

(f) fail to comply with an order, decision or direction made pursuant to this Part or the regulations made pursuant to this Part; or

(g) fail to comply with any provision of this Part or any provision of the regulations made pursuant to this Part.

Section 4-4

Procedures on Appeals

Purpose: Section 4-4 outlines the procedures that govern appeals of Division decisions heard by Adjudicators.

Legislation	Interpretation
<p><i>(1) After selecting an adjudicator pursuant to section 4-3, the board shall:</i></p> <ul style="list-style-type: none"> <i>(a) in consultation with the adjudicator and the parties, set a time, day and place for the hearing of the appeal or the hearing; and</i> <i>(b) give written notice of the time, day and place for the appeal or the hearing to:</i> <ul style="list-style-type: none"> <i>(i) in the case of an appeal or hearing pursuant to Part II:</i> <ul style="list-style-type: none"> <i>(A) the director of employment standards;</i> <i>(B) the employer;</i> <i>(C) each employee listed in the wage assessment or hearing notice; and</i> <i>(D) if a claim is made against any corporate directors, those corporate directors; and</i> <i>(ii) in the case of an appeal or hearing pursuant to Part III:</i> <ul style="list-style-type: none"> <i>(A) the director of occupational health and safety; and</i> <i>(B) all persons who are directly affected by the decision being appealed.</i> 	<p>The Labour Relations Board will consult with the Adjudicator to set a time, day and place for the appeal or hearing. Written notice will be provided to the employer, affected employees, corporate directors and the Executive Director of the Occupational Health and Safety Division</p> <p>The Adjudicator determines the procedures by which an appeal is conducted. Adjudicators are not bound by the normal rules of evidence law, and may accept any evidence they consider appropriate.</p> <p>If a person who is directly affected by an appeal has been given notice of the appeal, the Adjudicator may proceed with a hearing in the person's absence. Furthermore, Adjudicators may use simultaneous telecommunications to conduct a proceeding. This allows the process to proceed without everyone having to be in the same physical location.</p> <p>Each party in an appeal may represent themselves or choose to have someone else represent them during the appeal process. Typically, this could mean an employer representative or a lawyer.</p> <p>Note that subsection 4-4(5) states that a 'technical irregularity', does not invalidate the proceedings of a hearing or the outcome of an appeal. This means that a technical or procedural error during the appeal process will not nullify/void the outcome of the appeal.</p>

(2) An adjudicator may determine the procedures by which the appeal or 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 determine any question of fact that is necessary to the adjudicator's jurisdiction.

(5) A technical irregularity does not invalidate a proceeding before or by an adjudicator.

(6) Notwithstanding that a person who is directly affected by an appeal or a hearing is neither present nor represented, if notice of the appeal or hearing has been given to the person pursuant to subsection (1), the adjudicator may proceed with the appeal or the hearing and make any decision as if that person were present.

(7) The Arbitration Act, 1992 does not apply to adjudications conducted pursuant to this Part.

Section 4-5

Powers of Adjudicators

Purpose: Section 4-5 defines the powers of Adjudicators when conducting appeals of Division decisions.

Legislation	Interpretation
<p><i>(1) In conducting an appeal or a hearing pursuant to this Part, an adjudicator has the following powers:</i></p> <p><i>(a) to require any party to provide particulars before or during an appeal or a hearing;</i></p> <p><i>(b) to require any party to produce documents or things that may be relevant to a matter before the adjudicator and to do so before or during an appeal or a hearing;</i></p> <p><i>(c) to do all or any of the following to the same extent as those powers are vested in the Court of Queen’s Bench for the trial of civil actions:</i></p> <p><i>(i) to summon and enforce the attendance of witnesses;</i></p> <p><i>(ii) to compel witnesses to give evidence on oath or otherwise;</i></p> <p><i>(iii) to compel witnesses to produce documents or things;</i></p> <p><i>(d) to administer oaths and affirmations;</i></p>	<p>In the course of a hearing, Adjudicators may do as follows:</p> <ul style="list-style-type: none"> • require any party to provide testimony; • require any party to testify under oath; • require any party to provide documents relevant to the appeal; • administer oaths or affirmations; • decide questions of fact relevant to the appeal and may accept evidence even if it would not be admissible in a regular court; • conduct any appeal using a means of simultaneous telecommunications; and • adjourn or postpone the appeal. <p>With regard to appeals concerning matters of workplace harassment or discriminatory action, Adjudicators may:</p> <ul style="list-style-type: none"> • meet with the parties affected by the Officer’s decision to encourage a settlement; and • use mediation or other procedures before, during or after the hearing to encourage a settlement.

(e) to receive and accept any evidence and information on oath, affirmation, affidavit or otherwise that the adjudicator considers appropriate, whether admissible in a court of law or not;

(f) to conduct any appeal or hearing using a means of telecommunications that permits the parties and the adjudicator to communicate with each other simultaneously;

(g) to adjourn or postpone the appeal or hearing.

(2) With respect to an appeal pursuant to section 3-54 respecting a matter involving harassment or a discriminatory action, the adjudicator:

(a) shall make every effort that the adjudicator considers reasonable to meet with the parties affected by the decision of the occupational health officer that is being appealed with a view to encouraging a settlement of the matter that is the subject of the occupational health officer's decision; and

(b) with the agreement of the parties, may use mediation or other procedures to encourage a settlement of the matter mentioned in clause (a) at any time before or during a hearing pursuant to this section.

Section 4-6

Decisions of Adjudicators

Purpose: Section 4-6 defines the actions that may be undertaken by Adjudicators at the conclusion of the appeal process.

Legislation	Interpretation
<p><i>(1) Subject to subsections (2) to (5), the adjudicator shall:</i></p> <p><i>(a) do one of the following:</i></p> <p><i>(i) dismiss the appeal;</i></p> <p><i>(ii) allow the appeal;</i></p> <p><i>(iii) vary the decision being appealed; and</i></p> <p><i>(b) provide written reasons for the decision to the board, the director of employment standards or the director of occupational health and safety, as the case may be, and any other party to the appeal.</i></p> <p><i>(2) If, after conducting a hearing, the adjudicator concludes that an employer or corporate director is liable to an employee or worker for wages or pay instead of notice, the amount of any award to the employee or worker is to be reduced by an amount that the adjudicator is satisfied that the employee earned or should have earned:</i></p> <p><i>(a) during the period when the employer or corporate director was required to pay the employee the wages; or</i></p> <p><i>(b) for the period with respect to which the employer or corporate director is required to make a payment instead of notice.</i></p>	<p>An Adjudicator’s decision will be based on the evidence presented during the appeal hearings. When the hearings have ended, the Adjudicator can choose to dismiss the appeal, allow the appeal or vary the decision that is being appealed. The Adjudicator will then provide written reasons for this determination to the parties involved.</p> <p>If an Adjudicator decides that a worker has been subject to a ‘discriminatory action’, the Adjudicator can require the employer to re-instate the worker’s position and pay the worker lost wages. See clause 3-1(1)(i) of the Act for a detailed explanation of the term ‘discriminatory action’.</p>

(3) The employer or corporate director has the onus of establishing the amount by which an award should be reduced in accordance with subsection (2).

(4) If, after conducting a hearing concerned with section 2-21, the adjudicator concludes that the employer has breached section 2-21, the adjudicator may exercise the powers given to the Court of Queen's Bench pursuant to sections 31.2 to 31.5 of The Saskatchewan Human Rights Code and those sections apply, with any necessary modification, to the adjudicator and the hearing.

(5) If, after conducting a hearing concerned with section 2-42, the adjudicator concludes that the employer has breached section 2-42, the adjudicator may issue an order requiring the employer to do any or all of the following:

(a) to comply with section 2-42;

(b) subject to subsections (2) and (3), to pay any wages that the employee has lost as a result of the employer's failure to comply with section 2-42;

(c) to restore the employee to his or her former position;

(d) to post the order in the workplace;

(e) to do any other thing that the adjudicator considers reasonable and necessary in the circumstances.

Section 4-8

Right to Appeal Adjudicator's Decision to Board

Purpose: Section 4-8 provides that the Labour Relations Board may hear appeals of decisions of Adjudicators.

Legislation	Interpretation
<p><i>(1) An employer, employee or corporate director who is directly affected by a decision of an adjudicator on an appeal or hearing pursuant to Part II may appeal the decision to the board on a question of law.</i></p> <p><i>(2) A person who is directly affected by a decision of an adjudicator on an appeal pursuant to Part III may appeal the decision to the board on a question of law.</i></p> <p><i>(3) A person who intends to appeal pursuant to this section shall:</i></p> <p style="padding-left: 40px;"><i>(a) file a notice of appeal with the board within 15 business days after the date of service of the decision of the adjudicator; and</i></p> <p style="padding-left: 40px;"><i>(b) serve the notice of appeal on all persons mentioned in clause 4-4(1)(b) who received the notice setting the appeal or hearing.</i></p>	<p>Decisions of Adjudicators concerning occupational health matters can be appealed to the Labour Relations Board. However, such appeals are limited to questions of law.</p> <p>Clause 3(a) establishes the time period for appeals at 15 business days. This means the person affected can file a notice of appeal within 15 days after the service of the Adjudicator's decision. This applies to all adjudication appeals.</p>

(4) The record of an appeal is to consist of the following:

(a) in the case of an appeal or hearing pursuant to Part II, the wage assessment or the notice of hearing;

(b) in the case of an appeal pursuant to Part III, any written decision of an occupational health officer or the director of occupational health and safety respecting the matter that is the subject of the appeal;

(c) the notice of appeal filed with the director of employment standards pursuant to Part II or with the director of occupational health and safety pursuant to Part III, as the case may be;

(d) any exhibits filed before the adjudicator;

(e) the written decision of the adjudicator;

(f) the notice of appeal to the board;

(g) any other material that the board may require to properly consider the appeal.

(5) The commencement of an appeal pursuant to this section does not stay the effect of the decision or order being appealed unless the board orders otherwise.

The commencement of an appeal to the Labour Relations Board does not stay (or stop the affect of) the Adjudicator's decision unless the Board orders otherwise.

(6) *The board may:*

(a) affirm, amend or cancel the decision or order of the adjudicator; or

(b) remit the matter back to the adjudicator for amendment of the adjudicator's decision or order with any directions that the board considers appropriate.

Subsection (6) gives the Labour Relations Board the authority to render a decision respecting an appeal. The Board may affirm, alter or cancel the Adjudicator's decision, or return the matter to the Adjudicator for further consideration.

Section 4-9

Appeal to Court of Appeal

Purpose: Section 4-9 provides that decisions of the Labour Relations Board may be appealed to the Saskatchewan Court of Appeal.

Legislation	Interpretation
<p><i>(1) With leave of a judge of the Court of Appeal, an appeal may be made to the Court of Appeal from a decision of the board pursuant to section 4-8 on a question of law.</i></p> <p><i>(2) A person, including the director of employment standards or the director of occupational health and safety, intending to make an appeal to the Court of Appeal shall apply for leave to appeal within 15 business days after the date of service of the decision of the board.</i></p> <p><i>(3) Unless a judge of the Court of Appeal orders otherwise, an appeal to the Court of Appeal does not stay the effect of the decision being appealed.</i></p>	<p>Decisions of the Labour Relations Board concerning occupational health and safety matters can be appealed to the Saskatchewan Court of Appeal. As with appeals to the Labour Relations Board, such appeals are limited only to questions of law.</p> <p>Please note, an automatic right of appeal to the Court of Appeal does not exist. Before such an appeal can be heard, a Judge of this Court must grant permission for the appeal to proceed.</p> <p>An application for permission or ‘leave’ to appeal must be made to the Court within 15 business days after the date of service of the decision of the Board.</p> <p>As with appeals to the Labour Relations Board, the commencement of an appeal with the Court does not stay the effect of a decision of the Board unless the Court orders otherwise.</p>

Section 4-10

Right of Director to Appeal

Purpose: Section 4-10 grants the Executive Director of the Occupational Health and Safety Division standing to appear at appeals of Division decisions.

Legislation	Interpretation
<p><i>(1) The director of employment standards and the director of occupational health and safety have the right:</i></p> <p><i>(a) to appear and make representations on:</i></p> <p><i>(i) any appeal or hearing heard by an adjudicator; and</i></p> <p><i>(ii) any appeal of an adjudicator's decision before the board or the Court of Appeal; and</i></p> <p><i>(b) to appeal any decision of an adjudicator or the board.</i></p>	<p>Pursuant to this section, the Executive Director of the Occupational Health and Safety Division or his or her designate may participate in appeal proceedings.</p> <p>The Division will not advocate for any party involved in the adjudication or appeal, or defend any conclusions of fact previously determined by the Division.</p>

Section 5-17

Inspections

Purpose: Section 5-17 defines the inspection powers of Radiation Health and Safety Officers.

Legislation	Interpretation
<p><i>(1) Subject to subsection (4), a radiation health officer may enter any premises, place of employment, worksite or vehicle and conduct an inspection for the purpose of:</i></p> <p><i>(a) preventing radiation incidents or illnesses;</i></p> <p><i>(b) ascertaining the cause and particulars of a radiation incident or illness or of an event that had the potential to cause a radiation incident or illness;</i></p> <p><i>(c) making an inquiry in response to a complaint concerning radiation exposure; or</i></p> <p><i>(d) determining whether there is compliance with this Part or the regulations made pursuant to this Part.</i></p> <p><i>(2) An inspection may be conducted:</i></p> <p><i>(a) at any reasonable time; or</i></p> <p><i>(b) at any other time if the radiation health officer has reasonable grounds to believe that there is a radiation hazard.</i></p>	<p>‘Radiation Health Officers’ are specially trained Officers within the Occupational Health and Safety Division who enforce provisions within the Act that address the safe utilization of sources of radiation.</p> <p>Subsection 5-17(1) states that a Radiation Health Officer can enter any location, place of employment, worksite or vehicle to conduct an inspection to:</p> <ul style="list-style-type: none"> • prevent incidents, injuries and illnesses; • determine the causes and details of a radiation incident, injury or illness; • determine the cause and details of a dangerous-occurrence that could have resulted in a radiation incident, injury or illness; • respond to a radiation health and safety complaint; and • determine if a workplace is complying with the Act’s radiation health and safety provisions.

(3) When conducting an inspection in accordance with subsection (1), a radiation health officer may do all or any of the following things:

- (a) make any inquiry the officer considers appropriate;*
- (b) require the use of any machinery, equipment, appliance or thing located at the place or premises to be demonstrated;*
- (c) conduct any tests, take any samples and make any examinations that the officer considers necessary or advisable;*
- (d) take one or more persons to any place to assist the officer and may make arrangements with the person in charge of the place for those persons to re-enter the place to perform specified duties;*
- (e) require the production of, inspect and make copies of any books, records, papers or documents or of any entry in those books, records, papers or documents required to be kept by this Part or the regulations made pursuant to this Part;*
- (f) require the production of, inspect and make copies of any existing records related to training workers on matters related to radiation health and safety;*

Subsection 5-17(2) provides that a Radiation Health Officer can conduct an inspection at any reasonable time or at any other time where the Officer has grounds to believe that a radiation hazard exists.

Clauses 5-17(3)(e) through (g) permit a Radiation Health Officer to require the production of, inspect and take copies of any records the employer has regarding the training of workers and any other matters relating to radiation health and safety. **Pursuant to the Act, employers are required to keep workers' training records on file.**

Clauses 5-17(3)(h) through (j) permit Radiation Health Officers to require the help of workers at a place of employment to assist with retrieving and producing information that is stored electronically for the purposes of completing an inspection.

(g) subject to subsection (5), remove any books, records, papers or documents examined pursuant to this section for the purpose of making copies where a copy is not readily available, if a receipt is given;

(h) require any person whom the officer finds in or at a place of employment to provide the officer with any information the person has respecting the identity of the employer at that place of employment;

(i) require any person to provide the officer with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information;

(j) in order to produce information and records mentioned in this subsection, use any computer hardware or software or any other data storage, processing or retrieval device or system that is used by the person required to deliver the information and records.

(4) A radiation health officer shall not enter a private dwelling without a warrant issued pursuant to section 5-18 unless the occupant of the dwelling consents to the entry.

(5) A radiation health officer who removes any books, records, papers or documents pursuant to this section for the purpose of making copies shall:

(a) make those copies as soon as is reasonably possible; and

(b) promptly return the books, records, papers or documents from which the copies were made to:

(i) the place from which they were removed; or

(ii) any other place that may be agreed to by the officer and the person who produced them.

Section 5-23

Offence and Penalty

Purpose: Section 5-23 was amended to increase the penalties associated with radiation health and safety.

Legislation	Interpretation
<p><i>(1) No person shall:</i></p> <p><i>(a) fail to comply with an order or direction of a radiation health officer;</i></p> <p><i>(b) fail to reasonably cooperate with a radiation health officer in the exercise of his or her powers or the performance of his or her duties; or</i></p> <p><i>(c) contravene this Part or the regulations made pursuant to this Part.</i></p> <p><i>(2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$100,000 and, in the case of a continuing offence, to a further fine of not more than \$15,000 for each day during which the offence continues.</i></p>	<p>Violators of provisions of the Act concerning radiation health and safety can be subject to a prosecution within the Justice system. If found guilty by a Court, parties who commit such offences may be subject to a fine.</p> <p>Similar to other occupational health and safety fines, the maximum penalty is set by legislation, but the actual amount of the penalty is at the discretion of the Court.</p>

Section 9-9

Service

Purpose: Section 9-9 specifies the rules that govern the service of any document or notice required by the Act.

Legislation	Interpretation
<p>(1) <i>In this section, “director” means the director of employment standards appointed pursuant to Part II, the director of occupational health and safety appointed pursuant to Part III or the director of labour relations appointed pursuant to Part VI.</i></p> <p>(2) <i>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:</i></p> <p>(a) <i>by personal service on the person by delivery of a copy of the document or notice;</i></p> <p>(b) <i>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 ministry;</i></p> <p>(c) <i>by personal service at a place of employment on the person’s manager, agent, representative, officer, director or supervisor;</i></p> <p>(d) <i>by any of the methods set out in The Queen’s Bench Rules for the service of documents; or</i></p>	<p>Subsection 9-9(2) specifies the five options available to serve documents or notices on persons other than the Executive Director of the Occupational Health and Safety Division. The addition of this subsection means that ordinary mail is no longer a recognized means of service.</p> <p>Persons who are unable to serve a document or notice may apply to the Saskatchewan Court of Queen’s Bench for an order of substituted service, or an order dispensing with service, pursuant to subsections 9-9(6) and (7). In order to receive such an order, a judge of this Court must be satisfied with one of the following:</p> <ol style="list-style-type: none"> 1. prompt service of the document or notice cannot occur; 2. the person who is to be served cannot be found; or 3. the person who is to be served is evading service.

(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.

(3) A document or notice to be given or served on the division or the director must be given or served in the prescribed manner.

(4) A document or notice served by registered mail or certified mail is deemed to have been received on the fifth business 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 or received it at a later date.

(5) If the director is unable to effect service by the methods set out in subsection (2) 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.

(6) 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 substituted service or for an order dispensing with service.

Subsection 9-9(2) also applies to the Occupational Health and Safety Division. Documents or notices that Occupational Health Officers or the Executive Director provide to workplace parties must be served pursuant to one of these five options. However, subsection 9-9(5) also indicates that if the Executive Director is unable to serve a document or notice after making a reasonable effort to do so by the methods set out in subsection 9-9(2), service may be prompted by publishing the document or notice in a newspaper of general circulation in the area where the person to be served was last known to reside.

A document or notice served by registered mail or certified mail is considered to have been received within 5 business days, unless the person to whom it was mailed can establish that, through no fault of their own, they did not receive the document or notice.

(7) On an application pursuant to subsection (6), a judge of the Court of Queen's Bench may make an order for substituted service by any means that the judge considers appropriate or an order dispensing with service, if 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.

Interpretive Guide

The Saskatchewan Employment Act, Parts III, IV, V and IX

2014

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