

The Wages Recovery Act

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Chapter W-1 of *The Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979) as amended by the *Statutes of Saskatchewan*, 1979-80, c.92; 1988-89, c.42; 1989-90, c.54; and 2004, c.10.

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 W-1

An Act respecting the Summary Recovery of Wages by Employees

SHORT TITLE

Short title

- 1 This Act may be cited as *The Wages Recovery Act*.

INTERPRETATION

Interpretation

- 2 In this Act:

- (a) “**deputy minister**” means the deputy minister of the department over which the minister presides;
- (a.1) “**employee**” means a person who is receiving or is entitled to receive any wages;
- (b) “**employer**” includes every person responsible for the payment of the wages of an employee under any Act or law;
- (c) “**magistrate**” means a justice of the peace or a provincial magistrate;
- (d) “**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (e) “**rate of wages**” means the basis of calculation of wages;
- (f) “**wages**” means all wages, salaries, pay, commission and any compensation for labour or personal services measured by the time, piece or otherwise;
- (g) “**week**” means the period between midnight on Saturday and midnight on the immediately following Saturday.

R.S.S. 1978, c.W-1, s.2; 1988-89, c.42, s.108.

APPLICATION OF ACT

Application

- 3 Subject to section 23, this Act applies to every hiring or contract of personal service.

R.S.S. 1978, c.W-1, s.3.

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CONTRACTS OF SERVICE

Certain contracts to be in writing

4 Every hiring or contract of personal service for a period of more than one year shall be in writing and be signed by the contracting parties, otherwise it shall be void and of no effect.

R.S.S. 1978, c.W-1, s.4.

RECOVERY OF WAGES

Information and summons

5(1) An employee who has cause of complaint against his employer, whether the relationship of employer and employee has been determined or not, for:

- (a) the non-payment of wages to which he is entitled in respect of his employment; or
- (b) wages payable under a contract of service;

may lay an information in writing and under oath before a magistrate, stating the cause of complaint and the amount of wages claimed.

(2) Upon receiving the information the magistrate shall issue a summons requiring the employer to appear before him at the time and place mentioned therein to answer the claim made.

R.S.S. 1978, c.W-1, s.5.

Service of summons

6(1) The summons may be served by any adult person upon the person to whom it is directed, either personally by delivering to him a copy, or, if that person cannot conveniently be found, by leaving a copy for him at his last or most usual place of abode with some inmate thereof apparently of the age of sixteen years or over.

(2) The following fees shall be payable for service of the summons:

- 1 serving and returning summons, including affidavit of service or attending to prove service, 50 cents;
- 2 mileage to serve summons, one way, per mile, 15 cents; (if no public conveyance is available reasonable livery charges to be allowed);
- 3 mileage when service cannot be effected, upon proof of due diligence, one way, per mile, 15 cents.

R.S.S. 1978, c.W-1, s.6.

Order of magistrate on hearing

7(1) Subject to subsection (3), if, upon the hearing of a complaint, the magistrate is satisfied that the cause has been proven, he:

(a) may discharge the complainant from his employment if the term of service has not expired, and whether he is still in actual service with the employer or not; and

(b) shall order the employer to pay to the complainant the amount of wages found to be due to him and may also order the employer to pay to the complainant the amount of wages found to be due up to the time when the service could or would be legally ended by notice from the employer or by effluxion of time, together with costs of the prosecution.

(2) Costs of the prosecution shall include:

(a) such sum as the magistrate may allow for solicitor's costs; and

(b) an allowance to the complainant for his personal attendance as a witness in his own behalf.

(3) Where Part II of *The Labour Standards Act* does not apply to the employer the total sum, exclusive of costs of the prosecution, that the magistrate may order to be paid shall not exceed \$500 and the sum that he may allow for solicitor's costs shall not exceed \$25.

R.S.S. 1978, c.W-1, s.7.

Jurisdiction of magistrate

8(1) An information shall be heard and determined before a magistrate who ordinarily exercises his office in the locality where the cause of the complaint arose, but any magistrate may receive the information and issue a summons requiring the employer to appear before another magistrate having such jurisdiction.

(2) A magistrate before issuing a summons requiring the employer to appear before another magistrate shall satisfy himself that the magistrate will be in attendance at the time and place mentioned in the summons.

R.S.S. 1978, c.W-1, s.8.

Power to dispense with or postpone payment of costs

9(1) Where an employee desires to proceed under section 5, the magistrate before whom the information is laid, upon being satisfied that the complainant is unable, by reason of lack of funds or otherwise, to pay the costs and fees payable in respect of the proceedings instituted, including the cost of service of the summons, may dispense with the payment of them or extend the time of payment of them until after the determination of the proceedings.

(2) Where payment of costs and fees has been dispensed with or postponed under subsection (1) and judgment is given in favour of the complainant, these costs, including any other costs allowed, shall be included in the amount ordered to be paid.

R.S.S. 1978, c.W-1, s.9.

Enforcement of magistrate's order

10 Where default is made in payment of a sum ordered pursuant to section 7 to be paid, the magistrate shall, upon the request of the complainant, file a certified copy of the order in the office of the local registrar of the Court of Queen's Bench at the judicial centre nearest to the place where the employer resides and when so filed the copy of the order shall be entered as a judgment of Her Majesty's Court of Queen's Bench for Saskatchewan and may be enforced as such.

R.S.S. 1978, c.W-1, s.10; 1979-80, c.92, s.107.

Appeal

11(1) Subject to subsection (2), there shall be no appeal from an order made under this Act and no judge or court shall entertain an application for *certiorari* or motion to quash or set aside the order.

(2) An appeal shall lie from any such order to a judge of Her Majesty's Court of Queen's Bench for Saskatchewan sitting at the judicial centre nearest to the place where the cause of complaint arose, sitting in chambers, and in case of an appeal the judge shall proceed by way of a trial *de novo*, and the decision of the judge shall be final.

(3) Notice of intention to appeal shall be given:

(a) by filing in the office of the local registrar of the Court of Queen's Bench at the said judicial centre, within fifteen days after the making of the order complained against, a notice of intention to appeal setting forth with reasonable certainty the order complained against; and

(b) by serving the respondent and the magistrate who made the order with a copy of the notice.

(4) Such service shall be made within fifteen days after the making of the order complained against or within such further time, not exceeding an additional fifteen days, as the judge may see fit on *ex parte* application to allow, either before or after the expiration of the first mentioned fifteen days.

(5) The appellant may apply *ex parte* to the judge for an appointment to hear the appeal, and such application shall be made within thirty days after the making of the order complained against.

(6) Upon such application the judge shall grant an appointment and make such order with respect to service of notice of the hearing as the judge deems fit.

(7) Upon the hearing the judge may confirm, reverse or vary the decision of the magistrate or make such other order in the matter as the judge deems fit.

R.S.S. 1978, c.W-1, s.11; 1979-80, c.92, s.107.

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Power of representative to determine amount of wages not paid

12(1) If a duly authorized representative of the minister finds that an employer has failed to pay to an employee any wages to which he is entitled in respect of his employment or any wages payable under a contract of service, the representative may determine the amount of the wages that the employer has failed to pay to the employee, and if the amount is agreed to in writing by the employer and the employee, the employer shall within two days pay it to the deputy minister, who shall pay it to the employee forthwith upon receipt of it.

(2) If the employer pays such amount to the deputy minister as required by subsection (1) no information shall be laid under subsection (1) of section 5 in respect of wages covered by the payment.

R.S.S. 1978, c.W-1, s.12.

Records of deputy minister

13(1) The deputy minister shall keep a record of all money paid to him by employers and paid by him to employees under section 12.

(2) Where money received by the deputy minister on behalf of an employee has not been paid to the employee concerned by reason of the fact that the deputy minister has been unable to ascertain the whereabouts of the employee, and the employee does not claim it within a period of two years from the date of receipt thereof by the deputy minister, the money shall, upon the order of the deputy minister, become the property of the Crown and shall be paid into the general revenue fund.

R.S.S. 1978, c.W-1, s.13; 2004, c.10, s.17.

MISCELLANEOUS

Certain money deemed to be wages

14 All money ordered to be paid by an employer under clause (b) of subsection (1) of section 7 in respect of wages and all money paid by an employer under subsection (1) of section 12 shall be deemed to be wages earned by the employee entitled to the money and shall be subject accordingly to all deductions that the employer is required to make from salary or wages under any Act of the Parliament of Canada or of the Legislature of Saskatchewan.

R.S.S. 1978, c.W-1, s.14.

Discrimination by employer prohibited

15 No employer shall discharge or threaten to discharge or in any way discriminate against an employee for:

- (a) testifying or consenting to testify in any investigation or proceeding relative to the enforcement of this Act; or

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(b) giving any information to the minister or his duly authorized representative regarding wages that any employee has been paid or is entitled to be paid under any Act or a contract of service.

R.S.S. 1978, c.W-1, s.15.

Employer not to require return of wages

16 No employer shall require an employee to return to him nor shall he accept from an employee the whole or any part of any wages that he paid to that employee under this Act or a contract of service.

R.S.S. 1978, c.W-1, s.16.

Posting of abstracts

17 Every employer to whom Part II of *The Labour Standards Act* applies shall post and keep posted in a conspicuous position in the place or places where his employees are engaged in their duties, so that the same may be seen and read by all employees, any abstract or abstracts of this Act or any regulations made thereunder that may be prescribed by the minister.

R.S.S. 1978, c.W-1, s.17.

Records

18(1) Every employer to whom Part II of *The Labour Standards Act* applies shall at all times keep readily available for inspection by the minister or his duly authorized representative, in each place of business operated by him in the province or in connection with which any employee is employed or in such other place or places as are approved by the minister, true and correct records in the English language showing a copy of every written contract of service, collective bargaining agreement or other document dealing with wages or other monetary benefits to which any employee is entitled and the following particulars in respect of each of his employees or the employment of each of his employees, as the case may be:

- (a) the name, sex, date of birth and residential address;
- (b) the name or a brief description of the job or position of the employee;
- (c) the regular rate of wages and the date and particulars of any change in the rate of wages or other monetary benefits to which the employee is entitled;
- (d) the total wages paid for each week or other pay period;
- (e) the total number of hours worked each day and each week;
- (f) each deduction made from wages for any purpose whatever and the purpose for which each deduction was made.

(2) Each entry in such records shall be maintained by the employer for a period of not less than twenty-four months from the time when the entry was made.

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(3) Such records may be incorporated in any wage record that the employer is required to keep under any other Act; provided that the minister may require the records of any employer to be kept in such form as the minister may prescribe and where he does so the records shall be kept in the prescribed form.

R.S.S. 1978, c.W-1, s.18.

Power to enter premises, inspect records and obtain information

19 The minister or his duly authorized representative may at any reasonable time:

- (a) enter the premises of any employer and any other premises when he has reasonable cause to believe that any employee is employed therein at the time of entry;
- (b) inspect all books, documents, statements, pay rolls and other records of an employer that in any way relate to wages or other monetary benefit paid to or received by any employee or to which any employee is entitled or to any condition of employment affecting any employee;
- (c) take extracts from or make copies of any entry in such books, documents, statements, pay rolls and records;
- (d) require any employer to verify, within a specified time, the entries in his records by statutory declaration or in such other manner as the minister or his duly authorized representative may require; and
- (e) require any person to furnish, within a specified time and in a form acceptable to the minister or his duly authorized representative, information that in any way relates to wages or other monetary benefit paid to or received by any employee or to which any employee is entitled or to any condition of employment affecting any employee.

R.S.S. 1978, c.W-1, s.19.

Regulations

20(1) For the purpose of carrying out the provisions of this Act according their true intent and of supplying any deficiency therein the Lieutenant Governor in Council may make regulations not inconsistent with the spirit of this Act which shall have the same force and effect as if incorporated herein.

(2) **Repealed.** 1989-90, c.54, s.5.

R.S.S. 1978, c.W-1, s.20; 1989, c.54, s.5.

Foreign contracts

21 This Act applies to contracts and agreements made out of Saskatchewan in respect of service or labour performed in Saskatchewan.

R.S.S. 1978, c.W-1, s.21.

Limitation of action

22 Proceedings may be taken under this Act within one year after the engagement or employment has ceased or been terminated, or within six months after the last instalment of wages under the agreement of hiring has become due whichever date may be the later.

R.S.S. 1978, c.W-1, s.22.

Other remedies preserved

23 With the exception of section 4, nothing in this Act shall curtail, abridge or defeat any civil or other remedy for the recovery of wages by an employee from his employer, except insofar as any complaint under this Act has been determined by an order made under this Act and insofar as any wages are covered by an amount paid as required by subsection (1) of section 12.

R.S.S. 1978, c.W-1, s.23.